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BUSINESS COUNCIL
OF ALABAMA

October 31, 2012

Via U.S. Mail and E-Mail

Mr. Lance LeFleur (director@adem.state.al.us)
Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Re: Comments of the Business Council of Alabama on the Alabama Water Agencies Working Group Report "Water Management Issues in Alabama" Issued on August 1, 2012

Dear Mr. LeFleur:

The Business Council of Alabama (BCA) appreciates this opportunity to submit comments on the above referenced report. Please note that our comments are limited to the items specifically addressed in the report. There are many other water policy related issues that are not addressed in the report and BCA stands ready to comment on such issues at the proper time.

BCA is a non-profit corporation that represents approximately 4,000 businesses and industries in the State of Alabama on governmental and business issues. BCA's members are directly affected by state water management policies.

Water resources are the life-blood of our state: Water is essential to life; Alabama's businesses depend on water resources for transportation and energy production; and Alabama's citizens rely on water resources for rest, relaxation, and recreation. Alabama is truly blessed with an abundance of water resources compared to many other states. Nonetheless, our water resources are indeed finite and there is a growing demand for these finite resources within and beyond our state lines, particularly during times of drought. BCA clearly understands the need for sound state water management policies. However, the development of new state water management policies is a technically and politically complex undertaking requiring careful analysis and extensive stakeholder collaboration. BCA is committed to remaining actively engaged in this important process.

BCA's general and specific comments follow below.

General Comments

BCA concurs with the following statement in the conclusion section of the Water Management Issues in Alabama report: “There are many issues that must be addressed before comprehensive water policies and a statewide water management plan can be developed.” The report discusses the threshold issue that must be addressed in the Building Blocks for a Future Statewide Water Management Plan section of the report. That section pinpoints the need for the collection of pertinent water resources data concerning water use, water availability, and instream flows, among other things. BCA agrees that such data is an essential prerequisite to the development of any new state water management policy. Given the current lack of adequate data on existing water uses, stream flows, and minimum stream flow needs, it is premature to create additional or new water use regulatory authority at either the state-wide or regional level.

There are many policy options described in the report. Where the report goes into significant discussion regarding these policy options, there is a lack of specificity concerning the problems that these policy options are designed to solve. Due to this lack of specificity, it is challenging to provide meaningful comments on the proposed policy options. In order to allow stakeholders a better opportunity to address the policy options described in the report, BCA recommends, and fully supports, additional funding for Alabama agencies to further develop the state’s network of gages in order to collect the data necessary to gain a better understanding of our state’s water resources. In 2009, the legislature passed SJR5 which contained an outline of the type of data collection network that should be deployed. It is important to note this effort has never been funded. Only when the appropriate data has been gathered and models and forecasts have been developed concerning the state’s current and future water resource needs, will an adequate evaluation of any new policies be possible.

BCA supports the water reuse concept and encourages the agencies to explore opportunities to include the reuse of water as an alternative to direct discharges into quality limited waters.

The report advocates the creation of regional watershed management authorities. That could be problematic for a number of reasons, as discussed more fully below. Regional watershed management authorities might duplicate existing regulatory functions of existing agencies.

Current law vests the management of the state’s water resources with the Office of Water Resources and the Alabama Water Resources Commission (AWRC). The AWRC represents the key stakeholders in this area. BCA encourages the agencies to draw on the expertise of the AWRC and to more closely work with them on these issues. In addition to the AWRC, BCA encourages the agencies to include the Office of State Climatologist and the Alabama Department of Commerce in the Alabama Water Agencies Working Group. The addition of these agencies would provide further expertise regarding the linkage between climate and weather patterns on surface and ground water supplies as well as insight regarding the impact of water policy on economic development.

Specific Comments

Establishment of Regional Watershed Management Authorities

The report advocates establishing regional watershed management authorities. In 2011 SB485/HB631 sought to establish regional watershed management authorities and provide them with the power to adopt and implement watershed management plans. That could be problematic if the proposed watershed management authorities would be able to duplicate regulatory functions of existing state agencies. It would certainly make for more efficient government and state-wide consistency to manage Alabama's water resources on a state-wide basis through existing agencies rather than through fragmented regional authorities all across the state. Given the lack of adequate data on existing water uses, stream flows, and minimum stream flow needs, it is premature to create additional water use regulatory authority at either the state-wide or regional level.

Establishment of Minimum In-stream Flows

Notwithstanding the need to develop criteria and collect data before establishing minimum in-stream flows, the Alabama Department of Conservation and Natural Resources (ADCNR) recently issued their own in-stream flow policy. Clarification is needed regarding how the new ADCNR in-stream flow policy will be implemented.

Economic Development

Once the proper data is collected, models and forecasts are developed, and areas of potential water shortage are identified, BCA encourages the agencies to explore how to best promote and support the development of future water resources on behalf of economic development in the state.

Proposed Water Withdrawal Permitting System

Through existing law, Alabama currently has a mechanism to protect water resources from over-allocation and to address emergency situations. This is through the Capacity Stress designation process outlined in the Alabama Water Resources Act. Many impacted parties worked with the State of Alabama to manage the worst drought of record without having to implement the Capacity Stress designation process. It is unclear whether this was because the drought was not severe enough or because key stakeholders worked together to avoid mandatory water use restrictions. Given that Alabama has the Capacity Stress designation available today, the agencies should address the pros and cons of this tool and consider whether it is sufficient to address some of the issues raised to in the report.

Data

As previously discussed, any changes to water policy should be based on sound data and analysis and BCA strongly supports the collection of data and development of information clearinghouses as a necessary first step before proposing any new water management options. SJR5 from the 2009 legislative session outlines a data collection network that should be deployed in Alabama. Funding for this network should be a priority. In addition to the data

collection, we encourage the state to develop clear QA/QC procedures regarding water availability data and to seek opportunities limiting burdens on water users reporting data.

Proposed 2013 Drought Bill

BCA encourages the agencies to ensure that withdrawals associated with “dewatering” mining operations are given proper consideration in any proposed legislation. These types of withdrawals should not be treated the same as withdrawals that could be limited during a drought emergency.

BCA appreciates the effort of the agencies in this area and the opportunity to provide comments. We are supportive of the agencies’ efforts to better understand our state’s water resources and are confident that when the proper data is collected and analyzed it will be clear what areas need to be considered for potential changes in policy. Thank you for the opportunity to provide these comments. Please do not hesitate to contact us if you have any questions or require any additional information.

Sincerely,

William J. Canary
President and CEO



cc:

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