

## Conclusion

While public health may no longer be a dominant concern within the city planning profession, that should not imply that health is something to be relegated entirely to doctors and nurses. New data gathering tools and techniques means that planners can quickly compile reports to substantiate public health research. Health Impact Assessments, such as the one employed in Davidson, provide a useful template for integrating local health data into city regulations. Also, data clearinghouses, such as the Gulf Coast Community Exchange, can serve as a critical go-between for both public officials and medical professionals. A city is fundamentally a human undertaking and in order to have livable communities planners must have a vested interest in seeing that new urban activities and partnerships result in healthier living habits for city dwellers. 🏡

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## Endnotes

1. Joseph Schilling & Leslie Linton, *The Public Health Roots of Zoning*, American Journal of Preventive Medicine.
2. ESRI, *The Spread of Cholera in 19th Century London* (2019).
3. Stephen Halliday, *Death and miasma in Victorian London: an obstinate belief*, British Medical Journal (Dec. 22, 2001).
4. Christopher Caplinger, *Yellow Fever Epidemics*, Tennessee Encyclopedia (March 1, 2018).
5. Bernard A. Weisberger, *Epidemic*, American Heritage (Oct/Nov 1984).
6. Atlanta Regional Health Forum and Atlanta Regional Commission, *Land Use Planning for Public Health: The Role of Local Boards of Health in Community Design and Development* (2006).
7. Town of Davidson, *Davidson Design for Life* (Oct. 22, 2019).
8. Gulf Coast Community Exchange, *About Us* (Oct. 22, 2019).
9. Centers for Disease Control and Prevention, *500 Cities: About the Project* (Oct. 2, 2018).
10. Robin Fitzgerald, *\$3.4 million grant aims to improve health of black families on the coast*, Biloxi Sun Herald (Feb. 19, 2019).

# Court Rejects Move to Yank Alabama's Permitting Authority

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**Alabama environmental groups claimed that the Alabama** Department of Environmental Management (ADEM) failed to live up to its duties as a permitting authority under the Clean Water Act (CWA). It petitioned the federal Environmental Protection Agency (EPA) to revoke that permitting authority, and when EPA did not, the group sued. The Eleventh Circuit Court of Appeals upheld the agency's decision.<sup>1</sup>

Cahaba Riverkeeper (Riverkeeper) and others argued that EPA needed to revoke ADEM's authority for issuing National Pollutant Discharge Elimination System (NPDES) permits because the state did not comply with the CWA. Riverkeeper claimed that ADEM did several things wrong regarding the discharge permits, for example, by not indicating where the unpermitted spills were occurring, and by not inspecting as often as the law requires. Other shortcomings alleged by the plaintiffs included having regulatory board members with conflicts of interest, and being unable to bring suit against state agencies that violated their permits.

The standard, according to the court, is whether the EPA "acted within the bounds of permissible discretion" in denying

Riverkeeper's petition to revoke ADEM's permitting authority. The court found that the alleged problems occurred, but held that despite the fact that ADEM did not do everything right, EPA did nothing wrong in continuing the state's permitting authority. The court quoted precedent from a 1977 case in which environmental groups tried to get Mississippi's permitting authority revoked for making concessions to a large chemical company.<sup>2</sup> The court in that case stated that only the "most egregious flouting of federal requirements" by a state would justify revoking a state's permitting authority. In both cases, the courts did not find that the drastic step was warranted. Neither the laws nor the regulations of the CWA provided a procedure or method for revoking permitting authority, according to the court; therefore, EPA appropriately used its discretion. 🏡

## Endnotes

1. Cahaba Riverkeeper v. U.S. Environmental Protection Agency, No. 17-11972 (11<sup>th</sup> Cir. Sept. 12, 2019).
2. Save the Bay, Inc. v. Administrator of EPA, 556 F.2d 1282 (11<sup>th</sup> Cir. 1977).