

6/23/14

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
April 11, 2014**

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on April 11, 2014.



W. Scott Phillips

Vice Chair

Alabama Environmental Management Commission

Certified this 20th day of June 2014.

Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
April 11, 2014

Convened: 11:00 a.m.
Adjourned: 11:39 a.m.

Part A

Transcript
Word Index

Part B

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Part A

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2 * * * * *
3
4 ALABAMA ENVIRONMENTAL MANAGEMENT
5 COMMISSION MEETING
6
7 * * * * *
8
9 ALABAMA DEPARTMENT OF ENVIRONMENTAL
10 MANAGEMENT
11 (ADEM)
12 1400 Coliseum Boulevard
13 Alabama Room
14 Montgomery, Alabama 36110-2400
15
16 April 11, 2014
17 11:00 a.m.
18
19
20
21 Taken by: Margaret-Lea Flatt, ACCR# TL2024
22
23

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1 (The proceedings began at
2 approximately 11:00 a.m.)
3 CHAIRMAN BROWN: Good
4 morning. Call to order the meeting of the
5 Alabama Environmental Management
6 Commission. I hope everybody's doing
7 great today.
8 First, the Chair
9 acknowledges that we have a quorum present
10 today. Agenda Item No. 1 is the
11 consideration of the minutes held at the
12 meeting held on February 21st, 2014. The
13 minutes have been circulated to all
14 members of the Commission in advance of
15 today's meeting. And I will entertain a
16 motion.
17 VICE CHAIRMAN PHILLIPS: So
18 moved.
19 COMMISSIONER LAIER: Second.
20 CHAIRMAN BROWN: All in
21 favor?
22 ALL: Aye.
23 CHAIRMAN BROWN: Any opposed?

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1 A P P E A R A N C E S
2
3 COMMISSION MEMBERS PRESENT:
4 H. Lanier Brown, II, Esq., Chair
5 W. Scott Phillips, Vice Chair
6 James E. Laier, Ph.D., P.E.
7 Mary J. Merritt
8 Samuel L. Miller, M.D.
9 Terry D. Richardson, Ph.D.
10
11 COMMISSION MEMBERS NOT PRESENT:
12 Robert L. Carson, Jr., D.V.M.
13
14 ALSO PRESENT:
15 Robert Tambling, EMC Legal Counsel
16 Debi Thomas, EMC Executive Assistant
17 Lance R. LeFleur, ADEM Director
18 Russell A. Kelly, Chief, Permits and
19 Services Division
20 Michael William Mullen
21
22
23

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1 (No response.)
2 CHAIRMAN BROWN: Motion
3 passes.
4 Item No. 2 on our
5 agenda is, as usual, our report from the
6 Director.
7 Mr. Director?
8 DIRECTOR LEFLEUR: Thank you
9 Mr. Chairman.
10 Good morning and
11 welcome to all of you present to the
12 fourth of six scheduled meetings of the
13 Alabama Environmental Management
14 Commission for Fiscal Year 2014.
15 In today's report, I
16 will update you on the budget and then
17 focus on several topics related to
18 Departmental results, including: the
19 Department's recently completed State
20 Review Framework audit performed by EPA;
21 the Department's compliance strategy; a
22 look at some recent air quality and water
23 quality results achieved; and, finally,

<p style="text-align: right;">Page 5</p> <p>1 some late breaking news. 2 As for the Fiscal 3 Year 2014 budget, we are now into the 4 seventh month and we continue to be on 5 target with anticipated revenues and 6 expenditures in both the state and federal 7 budget components. 8 For Fiscal Year 9 2015, the Alabama Legislature has provided 10 the Department a General Fund 11 appropriation of \$1.2 million, which is a 12 \$200,000 increase over Fiscal Year 2014 13 level of funding. While the additional 14 \$200,000 is certainly needed and welcomed, 15 it will not be sufficient to cover 16 important investments that need to be 17 made. The Department will have no choice 18 but to delay payment for some necessary 19 upgrades to facilities and operating 20 systems. 21 On the federal side 22 of our FY 2015 budget, we have been 23 informed by EPA that unlike 2014 when</p>	<p style="text-align: right;">Page 7</p> <p>1 complex and difficult matter to analyze 2 and explain using only the data presented 3 in dashboards. 4 To gain greater 5 insight into the performance of the state 6 program, EPA directs the reader to the 7 State Review Framework audits of each 8 state's program. The SRF audits are 9 performed every three or four years. EPA 10 recently completed its audit of ADEM's 11 air, water, and hazardous waste programs. 12 In place of our regular Dashboard review, 13 today I will briefly review the results of 14 that EPA State Review Framework audit. 15 Since the inception 16 of the State Review Framework in 2004, 17 each state has completed at least two 18 audits, three or four years apart. The 19 current State Review Framework audit for 20 Alabama is one of the first audits in 21 Round 3. SRF audits contain twelve 22 elements for each of the three programs, 23 air, water, and hazardous waste. These</p>
<p style="text-align: right;">Page 6</p> <p>1 federal funding was level, it is expected 2 that EPA-provided funding will be 3 declining. When actual FY 2015 federal 4 funding levels are determined, the 5 Department will negotiate work plans to 6 reflect those new funding levels. 7 As mentioned 8 earlier, today I would like to now focus 9 on results and how results are achieved in 10 a cost effective manner. 11 At the August 2013 12 Commission meeting, I introduced you to a 13 new analysis tool developed by EPA called 14 "Interactive Visual Compliance and 15 Enforcement Metrics," which is more 16 commonly referred to as "Dashboards." 17 This tool provides an extensive set of 18 graphs which display activity and 19 performance measures for the air, water, 20 and hazardous waste programs in each state 21 in the nation. 22 As the EPA Dashboard 23 website notes, state performance can be a</p>	<p style="text-align: right;">Page 8</p> <p>1 elements address such activities as Data 2 Quality, Inspections, Occurrence and 3 Detection of Violations, Enforcement 4 Activities, and Penalty Activities. Each 5 of the twelve elements is ranked into one 6 of three categories: Meets Requirements, 7 Area for State Attention, and Area for 8 State Improvement. 9 The SRF audits are 10 in large part used as a management tool to 11 help focus efforts on areas where programs 12 can be strengthened. The audits are 13 useful in at least two important ways. 14 First, they are useful to analyze trends 15 in programs since the last audit. This 16 provides an objective indication of the 17 effectiveness of new initiatives to 18 strengthen the programs. 19 Second, the audits 20 provide an objective measure of the 21 relative quality of the air, water, and 22 hazardous waste programs in each state 23 compared to the programs in the other</p>

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1 states.

2 Please direct your

3 attention to the monitor. This graph

4 shows ADEM's SRF audit results for Round 1

5 in 2004, Round 2 in 2010, and Round 3 in

6 2014.

7 The graph shows a

8 number of elements falling into each of

9 three rankings for each audit. Meets

10 requirements, the green portion, is

11 self-explanatory. Area for state

12 attention, the pink portion, is defined as

13 single or infrequent minor deficiencies

14 that do not pose a risk to human health or

15 the environment. Area for state

16 improvement, the purple portion,

17 represents the most serious or important

18 shortcomings of the program that require a

19 formal plan to address. The trend shown

20 on this graph is in the right direction;

21 however, there are clearly areas for

22 improvement.

23 This next slide

Page 11

1 states. The Office of Inspector General

2 used the SRF audit results along with

3 other EPA data to arrive at the rankings.

4 Dark green represents the top ten states

5 in the nation. You will note that five of

6 the top ten states are in EPA Region 4.

7 Alabama is among the top ten in the nation

8 along with states such as California,

9 Florida, and North Carolina. In some ways

10 this is like SEC football, being third in

11 the southeast still puts you in the top

12 ten in the nation.

13 A copy of the

14 complete State Review Framework audit is

15 available on ADEM's website to any

16 interested party.

17 As you are well

18 aware, the Department undertakes numerous

19 activities to accomplish its mission of

20 assuring for all the citizens of the state

21 a safe, healthful, and productive

22 environment. Many of these activities are

23 aimed at achieving compliance with permit

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1 shows the most recent SRF audit results

2 broken down into the same three rankings

3 for Alabama and each of our seven sister

4 states in EPA Region 4. It's a little

5 difficult to see, but as you may be able

6 to see, using this set of measures,

7 Alabama at third out of eight states

8 performs better than average in our

9 region. I would point out that in some

10 instances individual states and EPA may

11 not be in agreement with the

12 characterization of an element as being in

13 one or another of the ranking categories.

14 The results displayed in this slide are

15 those EPA has assigned.

16 This third slide,

17 which you have seen before, provides some

18 perspective for interpreting the

19 performance of both our state and EPA

20 Region 4, shown on the last side. This

21 map shows the United States Office of

22 Inspector General ranking of the

23 enforcement programs in each of the 50

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1 conditions. When it comes right down to

2 it, compliance is the major objective for

3 ADEM. It is also the major objective for

4 EPA.

5 The greater the

6 extent to which the regulated community is

7 in compliance with permit conditions, the

8 greater the extent to which human health

9 and the environment are protected.

10 Protecting human health and the

11 environment is the essence of our mission.

12 Today, I will focus this portion of my

13 report on the Department's compliance

14 strategy and some of the results of that

15 strategy.

16 Research has shown

17 that there are several factors that, to

18 varying degrees, prompt behavioral changes

19 toward greater compliance. The three most

20 important factors are: inspections;

21 technical assistance, which is essentially

22 education or training; and penalties.

23 In a moment, I will

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1 review some of the research in this area,
2 but first, allow me to offer a common
3 place example of the concept -- speeding
4 on the highway. What makes drivers not
5 speed? Said another way, what makes
6 drivers comply with speed limits?
7 A major contributor
8 to drivers obeying the speed limit is
9 seeing a police officer's car on the road
10 or on the side of the road. If I see a
11 state trooper on the interstate, I look
12 down to see how fast I'm going. This is
13 analogous to having an ADEM inspector
14 visit a regulated facility. Another
15 contributor to obtaining compliance with
16 the speed limit is educating drivers on
17 the benefits of complying with the speed
18 limits. This can include such things as
19 driver's education or simply getting older
20 and wiser and would be analogous to an
21 informal enforcement action by ADEM. And
22 finally, compliance with speed limits is
23 encouraged by the credible possibility of

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1 Department of Environmental Quality. As
2 you can see from the title, it deals with
3 general deterrence of environmental
4 violation by analyzing what motivates the
5 regulated public to not violate or, in
6 other words, to comply. The study is
7 available on the Oregon DEQ website to
8 anyone interested. Without going into
9 detail, I've selected one chart which I
10 believe conveys the factors that actually
11 motivated compliance, both directly and
12 indirectly, and the relevant importance of
13 each of the factors.
14 This next slide is a
15 pie chart titled "Distribution of the
16 changes companies have made in management
17 operations or production processes that
18 included environmental considerations as a
19 function of the DEQ effort that motivated
20 the change." As you can see, inspections,
21 technical assistance, which is essentially
22 education or training, and penalties are
23 displayed. Each factor is represented by

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1 being issued a speeding citation. In the
2 case of ADEM, this would be a formal
3 enforcement action with a monetary
4 penalty.
5 Not surprisingly,
6 research funded by EPA, in fact, confirms
7 that inspections, technical assistance,
8 and penalties are the three most important
9 influencers of environmental compliance.
10 The research also found that there is an
11 indirect beneficial impact on compliance
12 when inspections, technical assistance,
13 and penalties are observed by parties not
14 directly experiencing the inspection,
15 technical assistance, or penalty. In our
16 example, this might be someone warning you
17 there is a police car up ahead or you
18 observe someone receiving a traffic
19 citation.
20 Again, please direct
21 your attention to the monitor. This is
22 the cover page of a 98-page EPA funded
23 study that was done by the State of Oregon

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1 a different color. Within each color, you
2 will see two components. The darker
3 portion is identified as direct impact on
4 compliance, and the lighter portion is
5 identified as indirect impact on
6 compliance.
7 The data shows that
8 47 percent of the time when changes toward
9 greater compliance actually occurred, it
10 was the result of inspections. This is
11 the orange portion of the chart.
12 44 percent of the time when changes toward
13 greater compliance occurred, it was the
14 result of technical assistance, which as
15 previously noted is comparable to
16 education or training, the green portion
17 of the chart. And 9 percent of the time,
18 the changes that occurred were the result
19 of penalties, the red portion of the
20 chart.
21 ADEM's experience is
22 consistent with the findings of this
23 study. For example, with the exception of

<p style="text-align: right;">Page 17</p> <p>1 one group of regulated entities, the 2 overwhelmingly leading cause of 3 noncompliance is personnel at the 4 regulated entity either not knowing what 5 was required in a permit or 6 misunderstanding a requirement in the 7 permit. The most productive way to 8 address this specific situation is 9 technical assistance or education combined 10 with a robust inspection program. 11 Interestingly, 12 overall, the changes in behavior that 13 occurred as a result of applying the three 14 factors were equally attributable to 15 direct and indirect application. This 16 means that, overall, Oregon DEQ compliance 17 activity equally impacted both those 18 members of the regulated community that 19 were the subject of the action and those 20 that were only aware of the actions taken 21 by the Department toward other members of 22 the regulated community. 23 This and other</p>	<p style="text-align: right;">Page 19</p> <p>1 to be in the top half for both our sister 2 states in Region 4 and all states in the 3 nation. 4 As shown earlier, 5 the federal Office of Inspector General 6 analysis of EPA data shows that the state 7 of Alabama's enforcement program ranks in 8 the top ten in the nation. As an aside, I 9 will observe that such a ranking is even 10 more noteworthy when it is coupled with 11 state-provided funding that is 49th in the 12 nation. Not only does this compliance 13 strategy get results, it is cost 14 effective. 15 Moving on to related 16 matters, I am pleased to report that after 17 more than 30 years of non-attainment for 18 fine particle, PM2.5, air pollution in 19 several areas of Alabama, the entire state 20 of Alabama is now in attainment for fine 21 particle air pollution. This is important 22 for several reasons. First, Alabama has 23 reached a new higher level of protection</p>
<p style="text-align: right;">Page 18</p> <p>1 evidence has prompted EPA to begin a new 2 initiative they call "Next Generation 3 Compliance" that embraces this concept of 4 increased inspection, training, and 5 technical assistance, rather than relying 6 solely on enforcement for obtaining 7 compliance. The bottom line is that this 8 approach gets results. 9 ADEM has streamlined 10 its inspection and enforcement activities 11 in a manner consistent with these concepts 12 as set out in recent research and EPA's 13 "Next Generation Compliance" initiative. 14 In recent years, ADEM's inspection 15 regimens have been adjusted to allow for 16 increased numbers of facilities to be 17 inspected and for more rapid informal 18 enforcement actions which represent 19 technical assistance. 20 Although inspection 21 coverage and technical assistance have 22 increased, formal enforcement actions with 23 penalties have not suffered and continue</p>	<p style="text-align: right;">Page 20</p> <p>1 for the health of our citizens. Second, 2 after years of improving air quality but 3 never quite achieving the increasingly 4 more stringent air quality standards, air 5 quality in Alabama has finally surpassed 6 those increasingly more stringent national 7 standards. Third, the restrictions placed 8 on industrial development as a result of 9 noncompliance status will be removed and 10 employment prospects for our citizens will 11 be improved. 12 This significant 13 achievement is the result of coordinated 14 efforts by the environmental community, 15 industry, and several governmental 16 organizations. And I tip my hat to all of 17 them. 18 As many of you are 19 aware, every two years the Department 20 develops a list, or inventory if you will, 21 of the impaired waters in Alabama to chart 22 the progress of efforts to improve water 23 quality in the state. In February of</p>

<p style="text-align: right;">Page 21</p> <p>1 2014, the most recent list was completed 2 and sent out to notice for public comment. 3 Three sets of comments were received, 4 reviewed, and addressed prior to sending 5 the proposed final list to EPA. 6 I'm pleased to 7 report that this list shows that 44 water 8 body segments that were previously 9 impaired for a cumulative total of 71 10 individual pollutants met the criteria for 11 removal from the list. This compares to 12 23 water body segments with a cumulative 13 total of 25 pollutants that met the 14 criteria for being added to the list. The 15 net result indicates improving water 16 quality in those areas of Alabama where 17 the analysis took place. 18 Once again, this 19 achievement is the result of coordinated 20 efforts of such organizations as Alabama 21 Water Watch, the Clean Water Partnership, 22 local water and soil conservation 23 districts, environment groups, several</p>	<p style="text-align: right;">Page 23</p> <p>1 be a matter of great concern for existing 2 industry, local governments, and any 3 industry considering locating in Alabama. 4 The ADEM Reform 5 Coalition petition cited 26 alleged 6 shortcomings of the program in meeting 7 requirements of the federal Clean Water 8 Act. The areas of alleged failure were in 9 permitting quality, record keeping, 10 inspections, administrative procedures, 11 enforcement, penalty assessments, and 12 funding. The ADEM Reform Coalition 13 asserted that each one of the 26 alleged 14 failures, individually on its own, 15 warranted EPA withdrawing the Department's 16 authority to issue and administer water 17 permits. 18 After an exhaustive 19 investigation by EPA and the expenditure 20 of substantial financial and human 21 resources by both EPA and this Department, 22 EPA has just reported on its findings to 23 date. Using actual objective and</p>
<p style="text-align: right;">Page 22</p> <p>1 governmental agencies, and our good 2 corporate and industrial citizens. 3 There's one final 4 very serious matter I would like to 5 address today. It is the petition filed 6 in January 2010 by a group of 7 environmental organizations calling 8 themselves the ADEM Reform Coalition. The 9 petition requested that EPA withdraw the 10 Department's authority to issue and 11 administer NPDES water permits in Alabama. 12 Withdrawal of NPDES authority has 13 devastating impacts on a state. 14 The issuance and 15 administration of all new permits and 16 renewals of existing permits is taken over 17 by EPA. The timing and conditions of 18 water permits are dictated by EPA Regional 19 offices rather than by the state. Such a 20 situation in Alabama would result in the 21 loss of state authority to protect and 22 improve Alabama's water quality. Direct 23 EPA control over water permits would also</p>	<p style="text-align: right;">Page 24</p> <p>1 verifiable data to measure results 2 achieved by the ADEM NPDES program, I am 3 pleased to report that yesterday April the 4 10th, 2014, we were notified that EPA 5 found that none, absolutely none, of the 6 allegations are worthy of withdrawing 7 Alabama's ability to issue and administer 8 water permits. Only two areas have been 9 identified for further monitoring by EPA. 10 This is a great 11 victory for Alabama. It is also a great 12 victory for the working citizens of the 13 state and their families who depend on the 14 state being able to attract and retain 15 industry that provide jobs for their 16 livelihoods while maintaining a safe and 17 healthful environment. 18 The two areas EPA is 19 continuing to assess involve penalties and 20 Departmental funding. With regard to 21 penalties, EPA has rejected a portion of 22 the ADEM Reform Coalition allegations, but 23 has indicated that procedures currently in</p>

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1 place at the Department will have to be
2 maintained for additional time before EPA
3 will dismiss the remaining penalty-related
4 allegations.

5 In the matter of
6 funding, EPA states that Departmental
7 funding is a concern and it will be
8 monitoring the impacts of recent ADEM
9 budget cuts. Consequently, EPA has
10 deferred making a determination on this
11 allegation indefinitely.

12 EPA's action affirms
13 the pattern of performance highlighted in
14 my earlier comments today. The air, land,
15 and water quality programs are solid. Are
16 there areas for improvement? Yes.

17 Although the
18 Department remains committed to continuing
19 to be a low-cost, high-performance
20 organization, I must close with an
21 observation that continuing to be a
22 low-cost, high-performance organization
23 can be a tenuous proposition if our

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1 operational funding, that is at best
2 marginal, drops or if investments that
3 eventually must be made are not provided
4 for. Sustainable high performance
5 requires at least some minimal level of
6 operational funding and long-term
7 investment. As I said, EPA continues to
8 monitor that situation.

9 This has been a
10 costly episode on many levels for all
11 parties concerned. I am hopeful that this
12 experience will motivate those parties to
13 improve communication and make the extra
14 effort to avoid the situations that
15 brought this about. Following today's
16 Commission meeting, there is an
17 opportunity to advance the process of
18 improved communication at the regular
19 meeting between the Department and all
20 interested members of the environmental
21 community.

22 Once again, let me
23 close my remarks with my thanks to you for

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1 serving the state of Alabama as
2 commissioners of the Alabama Environmental
3 Management Commission, and for allowing me
4 to serve the state in this capacity. If
5 there are any questions, I would be
6 pleased to address them now.

7 (No response.)
8 CHAIRMAN BROWN: Thank you,
9 Mr. Director.
10 DIRECTOR LEFLEUR: Thank you.
11 CHAIRMAN BROWN: Next on the
12 agenda is the report from the Commission
13 Chair.

14 I would only like to
15 report today or advise everyone that I
16 have asked the Personnel Committee to
17 obtain feedback from the full Commission
18 on the Director's performance and to come
19 back with a consolidated feedback and any
20 recommendations. If any members of the
21 public wish to provide comments, please do
22 so directly in writing to the Personnel
23 Committee. Thank you.

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1 Next on the agenda,
2 Item 4, is consideration of the adoption
3 of proposed amendments to the ADEM
4 Administrative Code, General
5 Administration Regulations. And we will
6 call on the Department.

7 MR. KELLY: Good morning, and
8 thank you, Mr. Chairman, members of the
9 Commission. I'm Russell Kelly, Chief of
10 the Permit and Services Division.

11 Before you now is
12 the proposed revisions to the Division 1
13 regulations. These revisions include the
14 addition of five new forms and the
15 modification of 28 existing forms. Public
16 hearing was held on February 12th, 2014.
17 During that public hearing, no comments
18 were received. However, we did receive
19 one comment during the -- one written
20 comment, prior to the end of the comment
21 period. The comment was addressed, and
22 the reconciliation statement is included
23 as part of your handout.

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1 At this time, we'd
2 ask for your favorable consideration of
3 these revisions, and I'll answer any
4 questions should you have any.
5 VICE CHAIRMAN PHILLIPS: Move
6 we accept the proposed amendment.
7 COMMISSIONER MILLER: Second.
8 CHAIRMAN BROWN: Chair will
9 call for the question. All in favor?
10 ALL: Aye.
11 CHAIRMAN BROWN: Any opposed?
12 (No response.)
13 CHAIRMAN BROWN: Motion
14 passes.
15 MR. KELLY: Thank you,
16 Mr. Chairman, members of the Commission.
17 CHAIRMAN BROWN: Is there any
18 other business any of the Commissioners
19 wish to bring forward?
20 (No response.)
21 CHAIRMAN BROWN: The Chair
22 notes that the next meeting of the
23 Commission is June 20, 2014, at 11:00 a.m.

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1 right here. I believe all Commissioners
2 are planning to be present.
3 Next, we will move
4 to the public comment period.
5 We have a request
6 from Benjamin Eaton on behalf of Black
7 Belt Citizens Fighting for Health and
8 Justice in Uniontown on the issues of
9 environmental issues concerning the Black
10 Belt Citizens Fighting for Health and
11 Justice in the Uniontown community.
12 We have a request
13 from Nelson Brooke on behalf of Black
14 Warrior Riverkeeper to update the
15 Commission on developments and issues
16 concerning the City of Uniontown's waste
17 water treatment plant.
18 A request from Mike
19 Mullen on behalf of the Choctawhatchee
20 Riverkeeper, Inc. on the development of
21 critical environmental issues, development
22 of policy for critical environmental
23 issues facing the state.

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1 And a request from
2 David Ludder to address ADEM's current
3 Environmental Justice policy.
4 The Chair has
5 recommended that the Commission deny the
6 request from Mr. Eaton and the Black Belt
7 Citizens Fighting for Health and Justice
8 and request Number 2 from Mr. Brooke about
9 the Uniontown wastewater treatment plant
10 because the subject matter is currently
11 the subject of an enforcement action
12 pending in the circuit court. And it
13 would be inappropriate in the Chair's mind
14 to comment or receive comment on pending
15 litigation.
16 The Chair will
17 recommend that Mr. Ludder and Mr. Mullen's
18 presentations be approved.
19 So I will entertain
20 a motion for, first, Mr. Eaton's
21 presentation.
22 COMMISSIONER RICHARDSON: I
23 move to deny the request.

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1 COMMISSIONER LAIER: Second.
2 CHAIRMAN BROWN: Any
3 discussion?
4 (No response.)
5 CHAIRMAN BROWN: All in favor
6 of denying the request for Mr. Eaton, say
7 "aye."
8 ALL: Aye.
9 CHAIRMAN BROWN: Any opposed?
10 (No response.)
11 CHAIRMAN BROWN: Chair will
12 entertain a motion with regard to
13 Mr. Brooke's request to address the
14 Commission.
15 COMMISSIONER RICHARDSON: I
16 move to deny the request.
17 COMMISSIONER LAIER: Second.
18 CHAIRMAN BROWN: Any
19 discussion?
20 (No response.)
21 CHAIRMAN BROWN: All in favor
22 of denying the request, say "aye."
23 ALL: Aye.

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1 CHAIRMAN BROWN: Any opposed?
2 (No response.)
3 MR. BROOKE: Y'all let us
4 speak back in October.
5 CHAIRMAN BROWN: Sir, you've
6 not been asked to address the Commission.
7 I'd appreciate it if you would keep your
8 comments to yourself while we're
9 conducting business.
10 Chair will entertain
11 a request or a motion on Mr. Mullen's
12 presentation.
13 VICE CHAIRMAN PHILLIPS: I
14 move we accept the Chair's recommendation.
15 COMMISSIONER MILLER: Second.
16 CHAIRMAN BROWN: All in
17 favor?
18 VICE CHAIRMAN PHILLIPS: Aye.
19 COMMISSIONER LAIER: Aye.
20 COMMISSIONER MILLER: Aye.
21 COMMISSIONER MERRITT: Aye.
22 CHAIRMAN BROWN: Any opposed?
23 COMMISSIONER RICHARDSON: Aye.

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1 CHAIRMAN BROWN: Chair will
2 entertain a motion regarding Mr. Ludder's
3 request to address the Commission.
4 COMMISSIONER RICHARDSON: I
5 move to deny the request.
6 COMMISSIONER LAIER: Second.
7 CHAIRMAN BROWN: Any
8 discussion?
9 (No response.)
10 CHAIRMAN BROWN: All in favor
11 of denying Mr. Ludder's request to address
12 the Commission, say "aye."
13 COMMISSIONER MERRITT: Aye.
14 COMMISSIONER LAIER: Aye.
15 COMMISSIONER MILLER: Aye.
16 CHAIRMAN BROWN: All opposed?
17 VICE CHAIRMAN PHILLIPS: Nay.
18 CHAIRMAN BROWN: Nay.
19 Mr. Mullen will be
20 allowed to address the Commission. Please
21 limit your comments to ten minutes.
22 MR. MULLEN: Thank you,
23 gentleman. I think it's critical for the

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1 Commission to address policy. I was a
2 little bit concerned about the fact that
3 individual items that were on the earlier
4 2009 management -- policy management plan
5 were taken out of the one that you passed
6 at the last meeting.
7 Code of Alabama
8 gives all powers except those specifically
9 granted to you to ADEM -- I'm sorry, to
10 you, that those be reformed by the
11 Director. But the Code also, basically,
12 directs the Environmental Management
13 Commission, and it says it's one of your
14 duties to development environmental policy
15 for the state.
16 I would suggest that
17 for the state, ADEM, and the Commission to
18 achieve its vision to achieve the most
19 meaningful results for a safe and
20 healthful productive environment, and its
21 mission statement to assure for all
22 citizens of the state a safe, healthful,
23 productive environment that that cannot be

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1 done without looking at emerging and even
2 existing threats that have not had policy
3 developed for them.
4 How do you expect to
5 come close to meeting, fulfilling these
6 mission statements without proactively
7 identifying threats and risks to
8 Alabamians, their environment, and
9 developing policy and plans for addressing
10 them? It was probably understandable that
11 specific issues were dropped from the plan
12 because they're changing all the time, but
13 it's sort of disappointing that the public
14 doesn't know what the Commission is doing.
15 You know, what do you envision doing? Are
16 you doing any prioritizing on developing
17 policy? Are you making any plans to
18 develop policy?
19 Some of the issues
20 of the six that were there before are
21 long-festering matters that the state
22 could and probably should have had policy
23 on a long time ago. Others involved in

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1 measures that have been unaddressed and
2 present great risks to the environment; in
3 fact, just about everything we deal with
4 in water quality and a lot of what we deal
5 with in air quality.
6 If we look at the
7 six elements that were in the Unified
8 Strategic Plan previously, we see them
9 listed at the top -- maybe some other --
10 coal ash ponds, fuel storage, fuel
11 transportation, some other issues, there's
12 probably others that are not on this list.
13 In order to develop policy, you guys don't
14 have to do the heavy lifting. You have to
15 lead though. Somebody needs to get the
16 ball rolling and begin to develop policy
17 on some of these issues.
18 The policy
19 development needs to include all
20 stakeholders, it needs to be transparent,
21 it needs to be based on the best available
22 information, and it needs to be timely.
23 You know, maybe you go through and get

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1 going? How do we respond to some of these
2 matters before they reach the crisis
3 stage?
4 I can speak to one
5 of these issues. One of those is sea
6 level rise, climate change and sea level
7 rise. The picture shows you -- you're
8 going to see even with a three-foot or
9 possibly one-meter sea level rise, the
10 Causeway is under water. You're changing
11 the whole environment of the bay. You
12 have areas in Mobile that are under water.
13 When you have a storm surge, you have
14 significantly more damage and risk to
15 infrastructure and property.
16 We currently have a
17 three-foot, approximately one-meter, sea
18 level rise forecast by the end of the
19 century. And these estimates are probably
20 low. What if it's -- this is
21 three feet -- what if it's five? This is
22 just one example of the need to develop
23 policy on some of these critical issues.

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1 some experts to rank the issues and the
2 risks that they pose to citizens and the
3 environment and you work with the
4 Department and stakeholders to develop
5 working groups, set some schedules, and
6 begin to develop state policy on some of
7 these issues.
8 So, you know, policy
9 should be doing things like avoiding
10 excess death and illness, damage to
11 infrastructure, degradation of
12 environmental quality, resource damage
13 such as loss of fisheries, could be some
14 of the ranking features. You don't,
15 again, have to do it for yourself. It
16 doesn't have to be done internally with
17 ADEM. There all other agencies state,
18 federal, colleges, universities.
19 So what do you need
20 do? Prioritize the issues. Begin to do
21 some development of new policies and
22 plans. Once that is done, there needs to
23 be periodic assessments. Where are we

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1 I urge you to begin
2 to look at and involve the public on
3 developing policy to guide the state to
4 respond to some of these emerging issues
5 and some of these existing issues before
6 they reach the crisis stage. You know, if
7 we're unprepared, we're unable to protect
8 citizens, in many cases it will not just
9 be because a lack of resources, it will be
10 because of lack of policy that tells us
11 how to best apply the resources that we
12 have to some of these emerging issues.
13 Thank you.
14 CHAIRMAN BROWN: Thank you.
15 Anybody have any comments or questions?
16 (No response.)
17 CHAIRMAN BROWN: With that,
18 the Chair will entertain a motion to
19 adjourn.
20 VICE CHAIRMAN PHILLIPS: So
21 moved.
22 COMMISSIONER LAIER: Second.
23 CHAIRMAN BROWN: All in favor

1 of adjournment?
2 ALL: Aye.
3 CHAIRMAN BROWN: Meeting
4 adjourned.
5 (The proceedings concluded at
6 approximately 11:39 p.m.)
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2 COUNTY OF MONTGOMERY)
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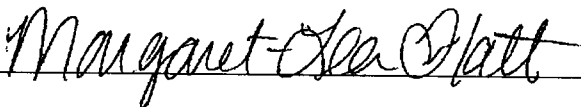
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Part B

Attachment Index

Attachment 1 Agenda

**Attachment 2 Resolution to adopt amendments to ADEM Admin. Code
Division 335-1, General Administration Regulations
(NPDES-Related Matter)
(Agenda Item 4)**

Attachment 1

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: April 11, 2014

TIME: 11:00 a.m.

LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Conference Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

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4. Consideration of adoption of proposed amendments to ADEM Admin. Code Division 335-1, General Administration Regulations (NPDES-Related Matter)	2
5. Other business	2
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PUBLIC COMMENT PERIOD	2 & Attachments

* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission.

** The Minutes for this meeting will be available on the ADEM website under Environmental Management Commission.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON FEBRUARY 21, 2014
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 335-1, GENERAL ADMINISTRATION REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider proposed amendments to ADEM Admin. Code Division 335-1, General Administration Regulations. Revisions to Rule 335-1-1-.07, Departmental Forms, Instructions, and Procedures, add five new forms and modify twenty-eight existing forms. The changes are needed to comply with State and Federal law. The Department held a public hearing on the proposed amendments on February 12, 2014.

5. OTHER BUSINESS
6. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

(The Requests from the public to address the Commission are attached to the agenda.)

Request 1

Benjamin Eaton, on behalf of Black Belt Citizens Fighting for Health and Justice,
Uniontown, Alabama

SUBJECT: Environmental issues of concern to the Black Belt Citizens Fighting for Health and Justice and the Uniontown community

(Chair Brown will recommend that the Commission deny the Request.)

Request 2

Nelson Brooke, on behalf of Black Warrior Riverkeeper, Inc.

SUBJECT: Update on new developments and issues of concern at the City of Uniontown's Wastewater Treatment Plant

(Chair Brown will recommend that the Commission deny the Request.)

Request 3

Michael William Mullen, on behalf of Choctawhatchee Riverkeeper, Inc.

SUBJECT: Development of policy of critical environmental issues facing the State of Alabama and its people whom the EMC represents

(Chair Brown will recommend that the Commission grant the Request.)

Request 4

David A. Ludder, Esq., on behalf of the ADEM Reform Coalition

SUBJECT: ADEM's current Environmental Justice policy

(Chair Brown will recommend that the Commission grant the Request.)

REQUESTS 1 & 2

Black Warrior RIVERKEEPER®
712 37th Street South
Birmingham, AL 35222
Tel: (205) 458-0095
Fax: (205) 458-0094
edillard@blackwarriorriver.org
www.BlackWarriorRiver.org



March 24, 2014

H. Lanier Brown, II, Esq., Chairman
Environmental Management Commission
P.O. Box 301463
Montgomery, AL 36130-1463

Via electronic and surface mail

Re: Request to Address the Environmental Management Commission
April 11, 2014 Meeting



Dear Chairman Brown:

Please accept this letter as two separate requests to address the Environmental Management Commission at its regularly scheduled April 11, 2014 meeting.

Benjamin Eaton is a member of Black Belt Citizens Fighting for Health and Justice, a nonprofit organization of concerned citizens in Uniontown, Alabama. He would like to address the Commission on several environmental issues of concern to his organization and community.

Nelson Brooke is Riverkeeper of Black Warrior Riverkeeper, Inc., a nonprofit organization located in Birmingham, Alabama, whose mission is to protect and restore the Black Warrior River and its tributaries. He made a presentation on the City of Uniontown's Wastewater Treatment Plant to the Commission at an earlier meeting. He plans to present an update on new developments and issues of concern at this facility.

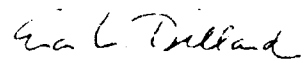
The scheduling of each of these presentations is in the public interest, as they will educate and inform both the Commission and the public. Moreover, these presentations will support and contribute to the Commission's mission of developing appropriate environmental policy for the State.

As a courtesy to the Commission, both Mr. Eaton and Mr. Brooke are each happy to submit any slides one week in advance of the meeting so that Commission members may have an opportunity to prepare.

Please know that I appreciate your kind consideration of these requests. Thank you.

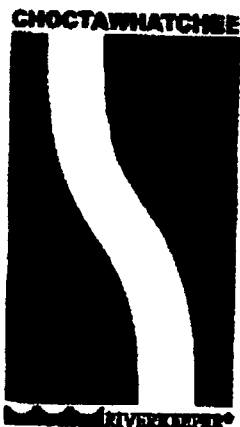
REQUESTS 1 & 2

Sincerely,

A handwritten signature in cursive script that reads "Eva L. Dillard".

Eva Dillard
Staff Attorney

cc: Debi Thomas, EMC Executive Assistant



H. Lanier Brown, II, Esq, Chair
 c/o Environmental Management Commission
 P.O. Box 301463
 Montgomery, AL 36130-1463

March 27, 2014

Dear Chairman Brown:

I am writing to request approval for a presentation at the 11 April 2014 AEMC meeting. The presentation will address development of policy of critical environmental issues facing the State of Alabama and its people whom the EMC represents.

The presentation slides are enclosed.

Respectively submitted,

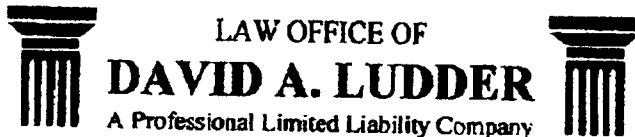
Michael William Mullen
 Choctawhatchee Riverkeeper



Choctawhatchee RIVERKEEPER®, Inc.
 P.O. Box 6734
 Banks, AL 36005
 334-807-1365
 Email: riverkeeper@troycable.net
 Web: <http://choctawhatcheeriver.org>



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March 27, 2014

Delivered via Facsimile

H. Lanier Brown, II, Esq., Chair
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36130-146

Re: Request of ADEM Reform Coalition to Speak at April 11, 2014 Meeting

Dear Chairman Brown:

The ADEM Reform Coalition requests that the Alabama Environmental Management Commission allow me, as an authorized representative of the Coalition, to address the Commission during the public comment portion of the Commission's April 11, 2014 meeting. The topic for discussion is ADEM's current Environmental Justice policy which the Coalition contends is both lacking in critical substance and in excess of ADEM's authority to develop and implement. A draft of the Coalition's presentation is attached and a final copy of the presentation will be provided in advance of the meeting.

Please note that Environmental Justice is not the same as Title VI of the Civil Rights Act of 1964. This presentation will not address ADEM's Title VI obligations or any pending Title VI complaints against ADEM that have been filed with the U.S. Environmental Protection Agency. Moreover, this presentation will not address any specific regulated facilities.

I look forward to receiving your recommendation.

Sincerely,

David A. Ludder



Attachment 2

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-1 of the Department's General Administration Division Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

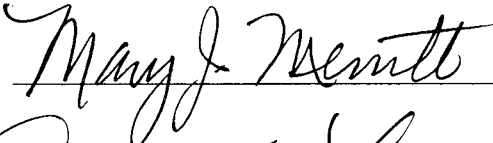


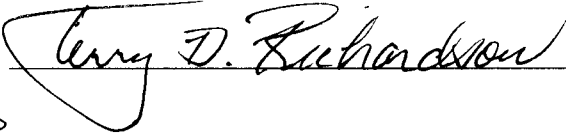
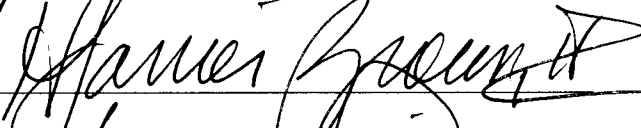
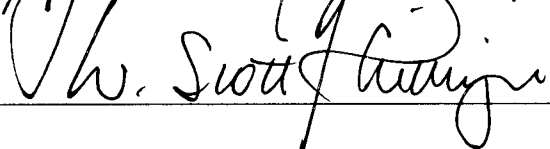
NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-1 [335-1-1-.07/Departmental Forms, Instructions, and Procedures (Amend)] of the Department's General Administration Division Program rules, administrative code attached hereto, to become effective thirty-five days, unless otherwise indicated, after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-1 – General Administration Division Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 18th day of April 2014.

APPROVED:

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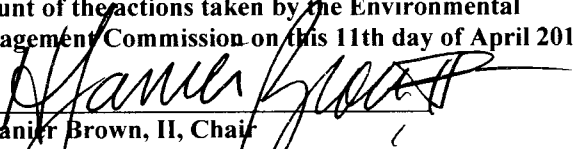
DISAPPROVED:

 _____	 _____
 _____	 _____
 _____	 _____

ABSTAINED:

 _____	 _____
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This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 11th day of April 2014.



H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 11th day of April 2014