

8/18/17

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
June 16, 2017**

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 June 16, 2017.



**H. Lanier Brown, II, Chair
Alabama Environmental Management Commission**

Certified this 18th day of August 2017.

Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
June 16, 2017

Convened: 11:02 a.m.
Adjourned: 11:50 a.m.

Part A

Transcript
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Part A

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1 ALABAMA ENVIRONMENTAL MANAGEMENT
2 COMMISSION MEETING
3
4
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7
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9 ALABAMA DEPARTMENT OF ENVIRONMENTAL
10 MANAGEMENT
11 Alabama Room
12 1400 Coliseum Boulevard
13 Montgomery, Alabama, 36110-2400
14 June 16, 2017
15 11:02 a.m.
16
17
18
19
20
21
22
23 Taken by: Victoria M. Castillo, CCR#17

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1 DR. RICHARDSON: Good
2 morning, everyone. I'm not really the
3 Chair of the Commission, but I did stay at
4 the Holiday Inn Express last night. So
5 we'll try to get this thing going. I will
6 call the meeting to order. And before
7 acknowledging that we have a quorum
8 present, I'd like to introduce Scott
9 Promer, who is taking over for Scott
10 Phillips, who resigned since our last
11 meeting. And so he will be filling the
12 Well Water position that's on the
13 Commission.
14 The Chair does acknowledge that
15 we have a quorum present, and we will move
16 to Agenda Item 1, consideration of the
17 minutes of the meeting held on April 21st,
18 2017.
19 DR. MILLER: Mr. Chairman, I
20 move that we accept the minutes as written.
21 DR. RICHARDSON: We have a
22 motion.
23 DR. LAIER: Second.

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1 A P P E A R A N C E S
2
3 COMMISSION MEMBERS PRESENT:
4 Terry D. Richardson, Ph.D., Vice Chair
5 Samuel L. Miller, M.D.
6 James E. Laier, Ph.D, P.E.
7 Mary J. Merritt
8 Scott Promer, P.E., M.B.A.
9
10 COMMISSION MEMBERS NOT PRESENT:
11 H. Lanier Brown, II, Esquire, Chair
12 E. Craig Martin, D.V.M.
13
14 ALSO PRESENT:
15 Robert Tambling, AEMC Legal Counsel
16 Debi Thomas, AEMC Executive Assistant
17 Lance R. LeFleur, ADEM Director
18
19
20
21
22
23

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1 DR. RICHARDSON: And a
2 second.
3 Any discussion regarding the
4 minutes?
5 (No response)
6 DR. RICHARDSON: Then the
7 Chair calls the question and asks for a
8 vote.
9 All in favor say "aye."
10 (Commission members indicate
11 "aye.")
12 DR. RICHARDSON: All
13 opposed, same sign.
14 (No response)
15 DR. RICHARDSON: Any
16 abstentions?
17 MR. PROMER: Abstain.
18 DR. RICHARDSON: Thank you.
19 The motion passes.
20 Agenda Item No. 2 is the
21 elections and the Chair notes that -- under
22 Agenda Item No. 2, the Commission will
23 first consider the election of the

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1 Commission vice-chair, which is needed
 2 because of the vacancy of the position due
 3 to the resignation of the former vice-
 4 chair, Scott Phillips.
 5 The Chair notes that he will
 6 entertain a motion from the Commission
 7 regarding the election of vice-chair.
 8 DR. MILLER: I nominate
 9 Dr. Richardson to be the vice-chair.
 10 DR. LAIER: Second.
 11 DR. RICHARDSON: We have a
 12 nomination and a second.
 13 Any further nominations?
 14 I will call the question and, I
 15 guess, have a vote. All in favor of that
 16 motion signify by saying "aye."
 17 (Commission members indicate
 18 "aye.")
 19 DR. RICHARDSON: All
 20 opposed, same sign.
 21 (No response)
 22 DR. RICHARDSON: Any
 23 abstentions?

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1 Miller. Members: Jim Laier and Craig
 2 Martin.
 3 For the Rulemaking Committee
 4 Chair: Terry Richardson. And members:
 5 Mary Merritt and Scott Promer.
 6 I will entertain a motion to
 7 accept the slate of nominees.
 8 DR. LAIER: I make the
 9 motion that we select the nominees.
 10 MS. MERRITT: And I second
 11 that motion.
 12 DR. RICHARDSON: Motion has
 13 been made and seconded.
 14 Is there any further discussion
 15 regarding the motion or additional
 16 nominees?
 17 (No response)
 18 DR. RICHARDSON: Chair calls
 19 the question. All in favor of the motion
 20 signify by saying "aye."
 21 (Commission members indicate
 22 "aye.")
 23 DR. RICHARDSON: All

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1 (No response)
 2 DR. RICHARDSON: Okay. The
 3 motion passes. And looks like I will be
 4 serving as vice-chair, which is interesting
 5 since my first line of duty as vice-chair
 6 will be to fill for the Chair who's not
 7 here today, which I was already doing. I
 8 was the senior member of the Commission.
 9 So, at any rate...
 10 The Commission will now consider
 11 election of the Chair and a member of the
 12 Commission's Rulemaking Committee. Also
 13 because these two positions were vacated
 14 from Scott's resignation. I note that the
 15 names of the proposed nominations for the
 16 Chair and member of the Rulemaking
 17 Committee have been circulated to the
 18 Commission.
 19 And I will entertain a motion
 20 from the Commission regarding the proposed
 21 nominations, which are -- these are found
 22 in two of your pamphlets -- the Personnel
 23 Committee, the nominations are Chair: Sam

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1 opposed, same sign.
 2 (No response)
 3 DR. RICHARDSON: Any
 4 abstentions?
 5 (No response)
 6 DR. RICHARDSON: Thank you.
 7 Motion passes.
 8 This brings us up to Agenda Item
 9 3, which will be the report from the ADEM
 10 director.
 11 Director LeFleur, the floor
 12 is yours.
 13 MR. LeFLEUR: Thank you.
 14 Good morning to all, and welcome to the
 15 fifth meeting of the Alabama Environmental
 16 Management Commission for fiscal year 2017.
 17 Welcome also to Scott Promer, our newest
 18 commission member.
 19 Today's report will update you
 20 on the Department's budget status, review
 21 the performance of the Department's Air
 22 Division using EPA dashboards, give you an
 23 update on the SSO Program addressed in the

<p style="text-align: right;">Page 9</p> <p>1 April Commission meeting, report on changes 2 in progress at EPA, and, finally, report on 3 some recent personnel changes in the 4 Department. 5 On the budget front, the 6 Department continues to be on target with 7 its FY 2017 funding and expenditures. The 8 FY 2018 State general fund budget was 9 passed by the Legislature and signed by the 10 Governor. The Department was appropriated 11 \$575,000 to operate the Concentrated Animal 12 Feeding Operations program. This 13 appropriation is due in no small part to 14 the efforts of Commissioner Richardson, who 15 contacted numerous members of the 16 legislature. No other State general funds 17 were appropriated for the Department. 18 The Federal Executive Branch 19 final budget proposal has been submitted to 20 Congress. The final proposed budget 21 maintains the 45 percent cut to federal 22 funding for states that was in the 23 preliminary budget proposal. As noted in</p>	<p style="text-align: right;">Page 11</p> <p>1 Enforcement Metrics, or "dashboards." The 2 reason for the delay is that EPA changed 3 the format the states are required to use 4 in reporting data in the EPA database. 5 While the Department has been able to 6 implement the new format, many other states 7 have not completed the process. As a 8 result, EPA is able to publish statistics 9 for ADEM's Air program, but is unable to 10 provide comparison of our performance 11 against national averages. The graphs you 12 will see today will show ADEM performance 13 measures for the years 2011 through 2016, 14 but will only show national averages for 15 the years 2014 and earlier. 16 As noted in previous reports, 17 the EPA-generated comparisons are useful 18 for several purposes. First, they 19 represent data that is standardized, 20 consistent, and objective, which can be 21 used by all parties as the basis for 22 informed discussion of issues. Second, they 23 provide a clear picture of the performance</p>
<p style="text-align: right;">Page 10</p> <p>1 the April Commission meeting, plans are in 2 place to adjust operations as necessary to 3 meet all Departmental obligations under the 4 anticipated possible federal funding 5 scenarios. 6 The extent to which any of these 7 adjustments may need to occur will depend 8 on the final outcome of the federal 9 budgeting process. At this time, it 10 appears that a reduction in the use of 11 outside contractors and normal attrition 12 will make it unnecessary to have any 13 Departmental layoffs. In the past, by 14 virtually every objective measure, the 15 Department has consistently been a high 16 performer. The Department has been, and 17 will continue, taking the necessary steps 18 to be a top performer using whatever 19 resources are available. 20 Moving on. It has been two and 21 a half years since we have reviewed 22 performance of the Air program utilizing 23 EPA Interactive Visual Compliance and</p>	<p style="text-align: right;">Page 12</p> <p>1 of the Department compared to EPA goals and 2 other states, so the Commission and the 3 public can make an informed judgment of 4 Departmental performance. Third, they can 5 be used by the Department to see trends and 6 where adjustments may be needed in the 7 operation of the Department. 8 The information we will see in 9 the following slides is for the entire 10 state of Alabama; however, Jefferson County 11 and the City of Huntsville implement the 12 Clean Air Act in their respective 13 jurisdictions. So the performance analysis 14 is for the Department, as well as Jefferson 15 County and Huntsville. These dashboards do 16 not, therefore, solely reflect the 17 Department's universe of regulated 18 facilities or its performance. 19 Also, these dashboards are 20 only -- these dashboards only reflect 21 information for federally-reportable 22 facilities. To be federally-reportable, a 23 regulated facility must be a major source,</p>

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1 a synthetic minor source -- which is a
2 facility that is capable of being a major
3 source, but which has elected to restrict
4 its emissions to a level below that which
5 would put it in the category of a major
6 source -- or any minor source that had a
7 federally-reportable violation during the
8 most recent fiscal year. The Department
9 actually reports compliance and enforcement
10 data for approximately 1,300 of its
11 regulated facilities, but all of these
12 activities are not classified as
13 federally-reportable and, therefore, are
14 not reflected in these dashboards.
15 So, with those caveats in mind,
16 we will walk through a few of the more than
17 50 Air dashboards available for analysis of
18 the Air Pollution Control program. As is
19 done in each dashboard presentation, we
20 will look at the size of the universe of
21 regulated facilities, the rate of
22 inspections, the findings from those
23 inspections, and then the enforcement

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1 and Water media. EPA does not require that
2 federally-reportable facilities receive an
3 FCE each year.
4 EPA requires a full compliance
5 evaluation for major sources once every two
6 fiscal years. EPA requires a -- an FCE for
7 synthetic minor sources once every five
8 fiscal years. However, the Department's
9 goal is to conduct a full compliance
10 evaluation on each of these sources every
11 fiscal year. The reason the bars on the
12 graph are less than the Department's 100
13 percent goal is that the local programs in
14 Jefferson County and Huntsville do not seek
15 to operate with the same self-imposed goal
16 to conduct compliance evaluations for 100
17 percent of facilities --
18 federally-reportable facilities each year.
19 As you can see, Alabama as a
20 whole has consistently exceeded EPA's
21 requirement, which is, at most, every two
22 years, or 50 percent. The FCE national
23 average across all states is shown as the

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1 actions taken where violations are found.
2 Please turn your attention to
3 the screen. This first slide depicts data
4 from EPA's database for Alabama's total
5 universe of federally-reportable facilities
6 under the Clean Air Act. There are
7 currently 334 facilities classified as
8 major sources, which is the -- which is
9 shown in dark blue; 344 synthetic minor
10 sources, which are shown in yellow; and 21
11 minor or other sources, which are shown in
12 light blue. These numbers do not include
13 facilities that are exclusively regulated
14 by the EPA. The number of major, synthetic
15 minor, and minor sources has not fluctuated
16 significantly in recent years.
17 In this second slide, you see an
18 analysis of the percentage of
19 full-compliance evaluations, or FCEs,
20 conducted on federally-reportable
21 facilities in Alabama for the period 2011
22 through 2016. Full compliance evaluations
23 are analogous to inspections for the Land

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1 dashed blue line hovering just below 40
2 percent on the graph. As noted earlier, on
3 this and other Air media graphs, the
4 national average comparison is only
5 available through 2014 due to reporting
6 problems a number of our sister states are
7 encountering.
8 The dashboard shown on this
9 third slide reflects the percentage of
10 federally-reportable facilities that were
11 found to have a federally-reportable
12 violation. The dashed green line at the
13 top of the graph represents the national
14 average violation rate across all states.
15 However, as with the prior slide, the
16 national average values are only available
17 through fiscal year 2014. The data
18 indicates that the violation rate in
19 Alabama was significantly lower than the
20 national average through fiscal year 2014,
21 and the violation rate in Alabama has
22 remained lower than the prior national
23 averages.

<p style="text-align: right;">Page 17</p> <p>1 A reasonable explanation for 2 this lower violation rate in Alabama is 3 that the high inspection rate, and high 4 informal enforcement rate, which is a form 5 of compliance assistance or education, 6 discourages violations. On this fourth 7 slide, you will see displayed the 8 percentage of federally-reportable 9 facilities receiving informal and formal 10 enforcement actions. Informal enforcement 11 actions appear in blue, and formal 12 enforcement actions appear in yellow. You 13 can see an increasing trend of both 14 informal and formal enforcement. 15 In the Air program, formal 16 actions are typically preceded by informal 17 actions; therefore, a facility may be 18 represented in each column. The dashed 19 green line at the top of the graph 20 represents the national average informal 21 enforcement action rate across all states. 22 And the dashed purple line on the top of 23 the graph represents the national average</p>	<p style="text-align: right;">Page 19</p> <p>1 enforcement, which is a strategy that 2 results in the lower rate of violations 3 being experienced in Alabama. 4 Much of the April Commission 5 meeting was spent on the issue of sanitary 6 sewer overflows, or SSOs. As was reported, 7 the Department has been working for several 8 years on improving the process for the 9 reporting of SSOs, both to the Department 10 and the public. In light of the fact that 11 there was extensive conversation on SSOs 12 after the April director's report, I would 13 like to address some of the concerns voiced 14 by following up in today's report with a 15 review of progress during the past few 16 months in this area and some of the plans 17 in place for future SSO-related activities. 18 Developing the standardized 19 electronic reporting of SSOs to the 20 Department by municipal waste water systems 21 is a long lead time process, but an 22 important step in obtaining timely, 23 accurate information. Making sure each</p>
<p style="text-align: right;">Page 18</p> <p>1 formal enforcement action rate across all 2 states. 3 However, as with prior -- the 4 prior two slides, the national average 5 values are only available through fiscal 6 year 2014. Please note that this graph 7 includes enforcement actions that were 8 taken for nonfederally-reportable 9 violations, as well as federally-reportable 10 violations. That is why the percentages of 11 the facilities with alleged violations 12 presented in the third slide is typically 13 lower than the percentage of facilities 14 receiving enforcement actions for the same 15 fiscal year in this slide. 16 To summarize, Alabama has a 17 steady universe of facilities with air 18 permits. Our inspection rates are much 19 higher than the national average. The 20 percentage of Alabama facilities with 21 violations is much lower than the national 22 average. And there is increasing use of 23 informal enforcement, along with formal</p>	<p style="text-align: right;">Page 20</p> <p>1 municipal waster water system has written 2 procedures to respond to SSOs, including 3 notifying the public, is another important 4 step. A final step is assuring that the 5 waste water systems are in fact complying 6 with their written procedures, particularly 7 as it relates to public notification. 8 At the April meeting, we walked 9 through a conceptual representation of the 10 conversion from a largely manual SSO 11 reporting system to a more timely and 12 efficient electronic SSO reporting system. 13 Implementing electronic reporting of SSOs 14 began in February 2012 when the Department 15 began accepting eSSOs on a voluntary basis 16 to test and refine the newly developed 17 system. Now that the system has been 18 proven, all new municipal waste water 19 permits require electronic reporting of 20 SSOs. 21 The process requires -- the 22 process requires the reporting entity to 23 log in on the ADEM website and complete the</p>

<p style="text-align: right;">Page 21</p> <p>1 reporting form shown in this slide upon 2 discovery of an SSO. The format for this 3 form is in the process of being updated, so 4 the final form will be slightly different. 5 It's a bit difficult to see the 6 form on that slide. By enlarging the 7 individual sections of the form on these 8 next few slides, you can see the form 9 requires information including the date and 10 time the SSO began, whether it is 11 continuing or stopped, the volume, and the 12 source of the discharge. 13 The exact location of the 14 discharge with latitude and longitude is 15 required, and the suspected cause must also 16 be entered. 17 The form requires information on 18 where the discharge went, whether the 19 discharge reached the swimming water, 20 monitoring efforts, corrective actions 21 taken and planned, the efforts to notify 22 the public. The eSSO system performs a 23 realtime confirmation of certain specific</p>	<p style="text-align: right;">Page 23</p> <p>1 all of the permit-holder's past SSO reports 2 in the eFile portion of our website. 3 The viewer can also -- is able 4 to view -- zoom in on the exact location of 5 the SSO on a street map, a topographical 6 map, or even an aerial view as shown on 7 this slide. The data will stay on the map 8 as long as the SSO is ongoing and for a 9 specified number of days after the event 10 has ended. Links to all the information on 11 the ADEM website relating to SSOs, 12 including the mapping tool, are available 13 for inclusion on the websites of 14 municipalities, local health departments 15 through the Alabama Department of Public 16 Health, environmental organizations, and to 17 any other interested organization. Plans 18 are also underway to offer interested 19 individuals an opt-in to have ADEM notify 20 them in realtime of any SSOs in the 21 counties of their choosing. 22 Municipal waste water systems, 23 under current ADEM rules, are required to</p>
<p style="text-align: right;">Page 22</p> <p>1 entries to assure that the required 2 information has been entered. All the 3 information submitted on the electronic 4 entry form will be immediately available to 5 the public on our website in eFile. 6 The mapping tool referenced in 7 the April Commission meeting was recently 8 completed. This slide shows the 9 interactive SSO map generated by that new 10 mapping tool. SSOs are reflected on the 11 map within 15 minutes of electronic 12 submittal of the entry form shown in the 13 previous slides. SSOs are color-coded on 14 the map to show the volume of the SSO. 15 Visitors to the website can zoom 16 in and click on any of the dots, which will 17 display data submitted for the selected 18 SSO. They can see details such as the 19 permit number, the name of the permit 20 holder, date, time, location, volume of the 21 SSO, and other information submitted on the 22 form shown on the prior slides. With one 23 click, the viewer can also link directly to</p>	<p style="text-align: right;">Page 24</p> <p>1 immediately notify ADEM, the county health 2 department, any other affected entities, as 3 well as the public, of any SSOs that reach 4 a water of the state or that may impact 5 public health, and that requirement will 6 not change. The new permit requirement for 7 utilizing electronic reporting of SSOs 8 means that, in addition to the requirement 9 that the municipal waste water system 10 notify the public of notifiable SSOs, any 11 other interested party will immediately 12 have that reported information available so 13 that it can also notify the public of SSOs 14 that might impact them. 15 An additional permit requirement 16 is in development to require that all 17 municipal waste water systems have written 18 procedures to respond to SSOs, including 19 written public notification procedures. 20 Individual municipal systems and the public 21 will have the opportunity for input on the 22 permit requirement for SSO response 23 procedures during the permitting process.</p>

<p style="text-align: right;">Page 25</p> <p>1 As was noted in the April 2 Commission meeting, municipal systems vary 3 widely in size, service areas, and urban 4 versus rural settings. Likewise, SSOs vary 5 widely in volume, duration, and potential 6 for public exposure. The level of 7 variability does not lend itself to 8 one-size-fits-all written procedures or for 9 a one-size-fits-all method for effectively 10 notifying the public. Having the timely 11 accurate information, which is required by 12 the eSSO permit condition is, however, a 13 common starting point for any public 14 notification system. A link to the ADEM 15 website and the SSO mapping tool of the 16 municipalities' website can be an addition 17 to the municipal system's SSO response 18 procedures. 19 Additionally, the Department 20 conducts SSO inspections, which include a 21 review of the municipal system's history of 22 responses to SSOs in its service area. The 23 inspection checks documentation of SSOs and</p>	<p style="text-align: right;">Page 27</p> <p>1 also be confirmed by the U.S. Senate. The 2 only nomination pending Senate confirmation 3 is Susan Bodine as the assistant 4 administrator for the Office of 5 Environmental Compliance -- excuse me -- 6 Enforcement and Compliance Assurance. 7 Ms. Bodine previously held the position of 8 assistant administrator in the George W. 9 Bush administration. 10 Additionally, Regional 11 administrators for the 10 EPA regions are 12 yet to be named. Regional administrators 13 are not subject to Senate confirmation. 14 Although appointed senior management is not 15 yet in place at EPA, career personnel are 16 conducting day-to-day operations and 17 generally are complying with the goals and 18 objectives of the new administration. 19 In a recent meeting at EPA 20 Region 4 in Atlanta, Ken Wagner, senior 21 advisor to the administration for Regional 22 and State Affairs, did provide some insight 23 to the behind-the-scenes activity to fill</p>
<p style="text-align: right;">Page 26</p> <p>1 confirms that the SSOs were reported as 2 required by the current Departmental NPDES 3 rules. Future inspections will include a 4 review of documentation on how the public 5 was notified. 6 Improved methods of addressing 7 SSOs and their potential impacts on the 8 public is a work in progress. This review 9 is a current status report. The 10 Department will continue to work with 11 municipal waste water systems, 12 environmental organizations, and the public 13 at large, to reach consensus on workable 14 approaches to address this important issue. 15 Moving on. At the federal 16 level, the process of putting the 17 leadership team in place at EPA is moving 18 very slowly. To date, the only -- to date, 19 only the administrator, Scott Pruitt, 20 former attorney general from Oklahoma, has 21 been named and confirmed by the Senate. 22 The deputy EPA administrator, 10 assistant 23 administrators, and general counsel must</p>	<p style="text-align: right;">Page 28</p> <p>1 these important EPA management positions. 2 According to Mr. Wagner, candidates for 3 each of the positions have been identified 4 and vetted. Final White House signoff is 5 anticipated to be forthcoming shortly, 6 which will then begin the Senate 7 confirmation process for positions where it 8 is required. 9 In closing, let me report on 10 several Departmental personnel matters. 11 First, Phil Davis, our Land Division chief, 12 has announced he will be retiring on July 13 1st after 29 years of service at the 14 Department. 15 Phil, would you please stand and 16 be recognized for your long and successful 17 career with ADEM. 18 (Audience applause) 19 MR. LeFLEUR: Replacing Phil 20 will be Stephen Cobb, who is currently the 21 chief of our Governmental Hazardous Waste 22 Branch in the Land Division. Steve has 23 also been with the Department for 29 years.</p>

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1 He's been instrumental in creating and
2 optimizing many of the hazardous waste and
3 solid waste programs in the Land Division.
4 I am confident Steve will be able to
5 successfully lead the division.
6 Steve, would you stand and be
7 recognized, sir?
8 (Audience applause)
9 MR. LeFLEUR: I'm also
10 pleased, and somewhat sad, to announce that
11 Vernon Barnett, who served as executive
12 counsel for seven years, was called by
13 Governor Ivey to assume the duties of
14 Commissioner of Revenue for the State of
15 Alabama. I'm pleased because it's a
16 wonderful opportunity for him, where I am
17 sure he will do well and because it
18 reflects well on ADEM. However, I am also
19 somewhat sad because the Department will be
20 losing a great asset.
21 Schuyler Espy, in addition to
22 her current duties in the Office of General
23 Counsel, will be assuming some of the

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1 Director.
2 Does anyone have any questions?
3 (No response)
4 DR. RICHARDSON: I would
5 like to ask, if we go back to the eSSOs,
6 what -- am I correct in hearing you say
7 that the eFiling is now in the permit
8 requirement?
9 MR. LeFLEUR: Correct. All
10 our permits have an eFiling requirement.
11 DR. RICHARDSON: And so most
12 everything you've showed us is pretty much
13 the current state of affairs?
14 MR. LeFLEUR: The form is
15 the current state of affairs, and the
16 interactive maps are all currently
17 available. Yes.
18 DR. RICHARDSON: Right.
19 Right. And we're working towards getting
20 people to be able to -- to sign-in and
21 request immediate notification?
22 MR. LeFLEUR: The opt-in for
23 immediate notification, that one has not

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1 duties of executive counsel. And Schuyler
2 is right here.
3 (Audience applause)
4 MR. LeFLEUR: The final
5 personnel matter involves the retirement of
6 Gisele Echols, the glue that held the
7 administrative office's operations together
8 for 12 years. Taking Gisele's place is
9 Laura Cranage, who has been Gisele's backup
10 for eight years. Laura is in the back
11 blushing.
12 (Audience applause)
13 MR. LeFLEUR: As you've
14 heard me say on several occasions in the
15 past, the Department has been blessed to
16 not only have great employees who are
17 moving on but also a deep bench from which
18 to draw well-qualified replacements. And
19 that's certainly the case with the changes
20 announced here today.
21 With that, I will close and
22 answer any questions that you may have.
23 DR. RICHARDSON: Thank you,

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1 been implemented yet, but we're -- I don't
2 know how far away we are. Russell Kelly is
3 not here today, or any of our IT people.
4 That's on the -- the short horizon.
5 DR. RICHARDSON: The short
6 horizon. Very good. Very good.
7 Any questions?
8 (No response)
9 DR. RICHARDSON: Thank you,
10 Director.
11 MR. LeFLEUR: Thank you.
12 DR. RICHARDSON: Moving
13 along to Agenda Item 4. This would be the
14 report from the Commission Chair. Chair
15 Brown did not pass on anything specific for
16 me to report; however, I will note that
17 Scott Phillips, as I've already mentioned,
18 has resigned from the Commission on April
19 22nd, 2017, and the Commission will
20 consider the adoption of a resolution for
21 former commissioner Phillips.
22 At this time, I will read that
23 resolution into the record: Whereas, W.

<p style="text-align: right;">Page 33</p> <p>1 Scott Phillips served in the certified by 2 Water Well Association position of the 3 Alabama Environmental Management Commission 4 for 15 years with his service on the 5 Commission beginning on December 16th, 6 2002, and ending on April 22nd, 2017; and, 7 whereas, due to his professional expertise 8 in the environmental field, he provided 9 experience, wisdom, and foresight in the 10 Commission's deliberations on significant 11 issues; and, whereas, he served admirably 12 in the leadership positions of Commission 13 Chair and Vice-Chair, having served three 14 terms as Chair and four-and-a-half terms as 15 Vice-Chair; and, whereas, during his tenure 16 on the Commission, he also served as Chair 17 of the Rulemaking and Strategic Planning 18 Committees and as a member of the Personnel 19 Rulemaking and Strategic Planning 20 Committees; and, whereas, his dedication to 21 effectively resolving environmental issues 22 was accomplished at great personal effort 23 and sacrifice; and, whereas, his personable</p>	<p style="text-align: right;">Page 35</p> <p>1 MR. LAIER: Second. 2 DR. RICHARDSON: It has been 3 moved and seconded to adopt the resolution. 4 Is there any further discussion 5 regarding the motion? 6 (No response) 7 DR. RICHARDSON: Hearing 8 none, I will call the question and ask for 9 a vote of approval. 10 All in favor of the motion 11 signify by saying "aye." 12 (Commission members indicate 13 "aye.") 14 DR. RICHARDSON: All 15 opposed, same sign. 16 (No response) 17 DR. RICHARDSON: Any 18 abstentions? 19 (No response) 20 DR. RICHARDSON: The motion 21 carries. At this time, I'd like to report 22 on the second item. And it's time again 23 for the evaluation of Department Director</p>
<p style="text-align: right;">Page 34</p> <p>1 manner, cooperative spirit, and support for 2 the efforts of the Commission and the 3 Alabama Department of Environmental 4 Management will be greatly missed by his 5 fellow Commissioners, the Commission's 6 legal counsel and assistant, and the 7 Department's Director, supervisors, and 8 staff. Now, therefore, be it resolved that 9 the Alabama Environmental Management 10 Commission expresses gratitude to W. Scott 11 Phillips for his significant contribution 12 to a better environment and an improved 13 quality of life for the citizens of 14 Alabama. Done this 16th day of June, 2017. 15 I think it would be appropriate 16 for us to give Scott a round of applause to 17 recognize his contributions. 18 (Audience applause) 19 DR. RICHARDSON: I will 20 entertain a motion from the Commission 21 regarding the adoption of the resolution. 22 MS. MERRITT: I move to 23 adopt the resolution.</p>	<p style="text-align: right;">Page 36</p> <p>1 LeFleur. And I would like to direct the 2 Personnel Committee to start a job 3 performance evaluation for Director LeFleur 4 covering the period of October 22nd, 2016, 5 the day after the Director's last 6 evaluation was completed, to the date of 7 the meeting recommendations from the 8 Committee regarding the evaluation are 9 considered by the Commission. 10 Chair notes that this -- as was 11 done in the 2015 and 2016 evaluation, the 12 Committee should obtain feedback from the 13 Commissioners and the public regarding the 14 Director's job performance and provide the 15 Commission with a consolidated list of 16 comments received by the deadline set for 17 receipt of comments and the Committee's 18 recommendation relative to the Director's 19 job performance for the evaluation period. 20 Moving on. Next, at the April 21 21st meeting this year, during the 22 discussion following the consideration of 23 the Petition for Rulemaking under Agenda</p>

<p style="text-align: right;">Page 37</p> <p>1 Item 5, Commissioner Phillips asked 2 Mr. Tambling to look at the ADEM 3 Administrative Code Rule 335-2-2-.06, the 4 disposition of petition. 5 Refreshing our memory that the 6 idea was that we had to act upon a 7 submitted petition within 60 days, and then 8 a lot of times that doesn't give the 9 Commission really much time to look at and 10 carefully weigh and evaluate the merits of 11 the petition. 12 Mr. Tambling has reported to me 13 his findings and the bottom line. As I 14 understand it, as he has presented it to 15 me, is that we are basically under the 16 Alabama Administrative Procedures Act with 17 respect to that specific code, which means 18 that it's not within the Rulemaking or the 19 Commission's ability to amend that 60-day 20 period. 21 As such, I see no reason for the 22 Rules Committee to take any further action 23 on that particular item. We will continue</p>	<p style="text-align: right;">Page 39</p> <p>1 discuss some of the pros and cons with the 2 Department and stakeholders, as well as 3 public and environmental concerns present 4 for that. 5 I don't think there's any 6 additional items that I need to address. 7 I'm looking intently at Debi over there. 8 MS. THOMAS: Are you going 9 to set a Committee meeting of your 10 Rulemaking Committee or make that 11 determination later? 12 DR. RICHARDSON: Not at this 13 point. I will make that determination 14 later, since I only just came into this 15 position an hour ago. 16 MS. THOMAS: Okay. 17 DR. RICHARDSON: Agenda Item 18 No. 5 is other business. Is there any 19 other business that needs to come before 20 the Commission, fellow commissioners? 21 (No response) 22 DR. RICHARDSON: Hearing 23 none, we will move on to Agenda Item 6, the</p>
<p style="text-align: right;">Page 38</p> <p>1 to follow the procedure as has been 2 written. I would comment that kind of as a 3 part of all of that, Rule 335-6-6-.12 was 4 referred to the Rulemaking Committee and 5 was adopted by the Commission on April 6 21st, and. What was ordered was that the 7 Rulemaking Committee would get together 8 with the Department and stakeholders to 9 look at the need for additional rules and 10 modifications to existing rules for public 11 notification of the separate sanitary sewer 12 overflows, the SSOs, much of which Director 13 LeFleur just referred to in his report. 14 As the Rulemaking Committee 15 Chair, and seeing as how Scott's 16 resignation followed immediately pretty 17 much following the last Commission meeting, 18 we have not moved forward on that at this 19 time, but do plan to do so and to hold a 20 joint meeting for those of you that were 21 involved. Very much like we did for the 22 public comment period. We want to kind of 23 have a round-table Committee meeting and</p>	<p style="text-align: right;">Page 40</p> <p>1 future business session of the future 2 Commission meeting. The date for the next 3 Commission meeting is set for August 18th, 4 2017, and I'd like to hear from my fellow 5 commissioners about their availability. 6 Is everyone available? Does 7 that date seem okay? 8 (No response) 9 DR. RICHARDSON: No 10 conflict. Very good. 11 That brings us to the public 12 comment period where we asked for brief 13 statements of the members of the public. I 14 think we've only had one person, Cindy 15 Lowry from Alabama Rivers Alliance, and she 16 wants to speak towards citizen 17 participation and collaboration with the 18 SSO situation. I've told her that I would 19 set an annoying alarm up here to stop her 20 when the time comes. So, Cindy? 21 MS. LOWRY: I actually typed 22 my comments so you can see how short they 23 are. I will warn you before I start that</p>

<p style="text-align: right;">Page 41</p> <p>1 there are probably sentences at the end 2 that are not on your list, because that was 3 dependent on what you did today. So it 4 looks to be the better of the two options. 5 All right. So I am Cindy Lowry. 6 I'm the executive director of the Alabama 7 Rivers Alliance, and I appreciate this 8 opportunity to address this Commission 9 today on the topic that's very important to 10 me and to the work of our organization and 11 that's citizen participation in government. 12 In light of the terrible event 13 in our Nation's Capital this week and the 14 general divisiveness that's so prevalent 15 these days, including in this very room at 16 times, I felt compelled to discuss the 17 topic of how we work together towards what 18 I feel are our common goals. 19 So if you're not familiar with 20 our organization, we are a statewide 21 network of local community and watershed 22 based organizations working to protect all 23 of Alabama's rivers and water resources.</p>	<p style="text-align: right;">Page 43</p> <p>1 to bring people together, experts, interest 2 groups, and impacted citizens, to discuss 3 the issues and truly hear the concerns of 4 all parties in order to make the most 5 informed decisions. Some examples of this 6 are the cancer risk petition from 2007 and 7 the public participation rule changes from 8 last year. 9 As a long time advocate and 10 active participant in government, I believe 11 there is a time and a place for marching in 12 the streets or for using other strategies, 13 such as the power of the law, to create 14 change. There's plenty of evidence to 15 verify the need for such measures to be 16 taken to protect the values we hold dear 17 and to protect people's lives. I do not 18 stand here to say that collaboration always 19 works. It is a time-consuming effort and 20 is often seen as bringing change -- as not 21 bringing change quickly enough to protect 22 people who are suffering every day from 23 pollution.</p>
<p style="text-align: right;">Page 42</p> <p>1 As the statewide network, we are often in 2 the position of trying to find state level 3 solutions to the complex threats facing our 4 rivers and are trying to bring many 5 different interests together to work 6 towards a solution. 7 While we are an advocacy 8 organization, we understand that choosing 9 the right strategy to achieve the change we 10 are seeking is of utmost importance. I 11 have been involved with participating as a 12 citizen in the work of ADEM and the 13 Environmental Management Commission since 14 2004. In those years, I've seen varying 15 degrees of success in citizen 16 participation, efforts of local community, 17 and environmental groups to achieve change 18 or improvement in environmental regulations 19 that they, or we, felt were not adequately 20 connecting communities, people, and the 21 environment. 22 Some of the most success has 23 occurred when the Commission took the time</p>	<p style="text-align: right;">Page 44</p> <p>1 However, if there is a 2 willingness on all sides to do the work it 3 takes to come together, then collaboration 4 can be a great way to get things right. I 5 believe some things are worth spending the 6 time to get right. When water can 7 potentially make children sick from 8 swimming in it, it is worth getting it 9 right. So I appreciate your willingness to 10 continue working toward a rule to improve 11 public education on sewer spills. We at 12 the Rivers Alliance will do everything we 13 can to honor the process you put together 14 and provide factual information to inform 15 the process. And I know that our partners 16 at the riverkeeper organization will do the 17 same. 18 By continuing to pursue this 19 issue with stakeholder input, you send a 20 message to all that you are a body willing 21 to hear citizen input and willing to work 22 toward a collaborative solution. So we're 23 grateful for that.</p>

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1 DR. RICHARDSON: Thank you,
2 Cindy.
3 Does anyone have any questions
4 for Cindy?
5 (No response)
6 DR. RICHARDSON: That shows you
7 she was just exactly three minutes.
8 As Chair of the Rulemaking Committee, I can
9 assure you that we intend to look into this
10 and that we want to begin as we did with
11 the public hearing, and that is to get
12 everybody around the table and let's talk.
13 I think that's the best way to get the most
14 -- the best input. And then we will --
15 we'll go from there, you know. I think it's
16 important for us as a Commission to hear and
17 to -- also, I think it's important for me
18 when we get together like that, so that each
19 side is present simultaneously, each interest
20 is present simultaneously, to hear what the
21 other side's concerns are in both directions.
22 So hopefully this will be a very profitable
23 endeavor as we get together and move

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1 forward on this in the future.
2 I will echo your sentiments
3 about getting it right takes time. As you
4 are well-aware with the public comment
5 situation, and as Chair of this Rulemaking
6 Committee, I can assure that it will be a
7 similar kind of process.
8 So any comments or questions?
9 (No response)
10 DR. RICHARDSON: Okay. This
11 item of the public comment period has
12 ended. We now move on to my favorite part
13 of most meetings, and that's adjournment.
14 Do I hear a motion to adjourn?
15 DR. LAIER: So moved.
16 MS. MERRITT: Second.
17 DR. RICHARDSON: Meeting is
18 adjourned.
19 (The meeting adjourned at
20 11:50 a.m.)
21 *****
22
23

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Part B

Attachment Index

Attachment 1 Agenda

**Attachment 2 Order adopting motion to accept Terry D. Richardson as Vice Chair
(Agenda Item 2)**

**Attachment 3 Order adopting motion to accept nominations to committees as cited by Chair
(Agenda Item 2)**

**Attachment 4 Director's Slides
(Agenda Item 3)**

**Attachment 5 Resolution for former Commissioner W. Scott Phillips
(Agenda Item 4)**

Attachment 1

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: June 16, 2017
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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* 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 APRIL 21, 2017

2. ELECTIONS

The Commission will elect a vice chair for the Commission and a chair and a member for the Commission's Rulemaking Committee.

3. REPORT FROM THE ADEM DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

5. OTHER BUSINESS

6. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

Members of the public that wish to make a brief statement at a Commission meeting may do so by first signing in on a register maintained by the Commission office prior to each regularly scheduled meeting. The register will close ten minutes prior to convening each meeting of the Commission. Following completion of all agenda items, the Commission Chair will call on members of the public wishing to make a statement in the order their names appear on the register. Speakers are encouraged to limit their statement to matters that directly relate to the Commission's functions. Speakers will be asked to observe a three minute time limit. While an effort will be made to hear all members of the public signed on the register, the Commission may place reasonable limitations on the number of speakers to be heard. (Guideline 11, Guidelines for Public Comment).

The Guidelines for Public Comment are used in the application of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda and Public Participation. The Guidelines for Public Comment serve to educate and inform the public as to how the Commission interprets and intends to apply the Rule. The revised Rule 335-2-3-.05 was effective October 7, 2016.

Attachment 2

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Accept Terry Richardson as Vice Chair

ORDER

This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

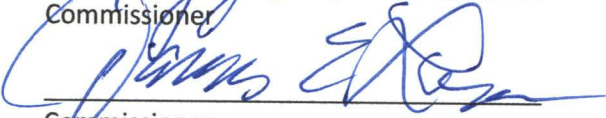
Environmental Management Commission Order
Page 2

ISSUED this 16th day of June 2017.

APPROVED:




Commissioner




Commissioner



Commissioner



Commissioner



Commissioner

Commissioner

Commissioner

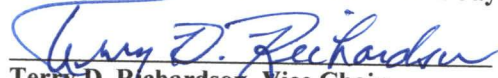
DISAPPROVED:

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 16th day of June 2017.



Terry D. Richardson, Vice Chair
Environmental Management Commission
Certified this 16th day of June 2017

Attachment 3

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Accept nominations to committees as cited by Chair

ORDER


This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That a copy of the list of committees is attached and made a part hereof; and
3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order
Page 2

ISSUED this 16th day of June 2017.

APPROVED:



Commissioner



Commissioner




Commissioner

Commissioner



Commissioner

Commissioner



Commissioner


DISAPPROVED:

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 16th day of June 2017.



Terry D. Richardson, Vice Chair
Environmental Management Commission
Certified this 16th day of June 2017

6/16/17

Alabama Environmental Management Commission 2017 Committees

Personnel Committee

Chair: Sam Miller

Members: Jim Laier
Craig Martin

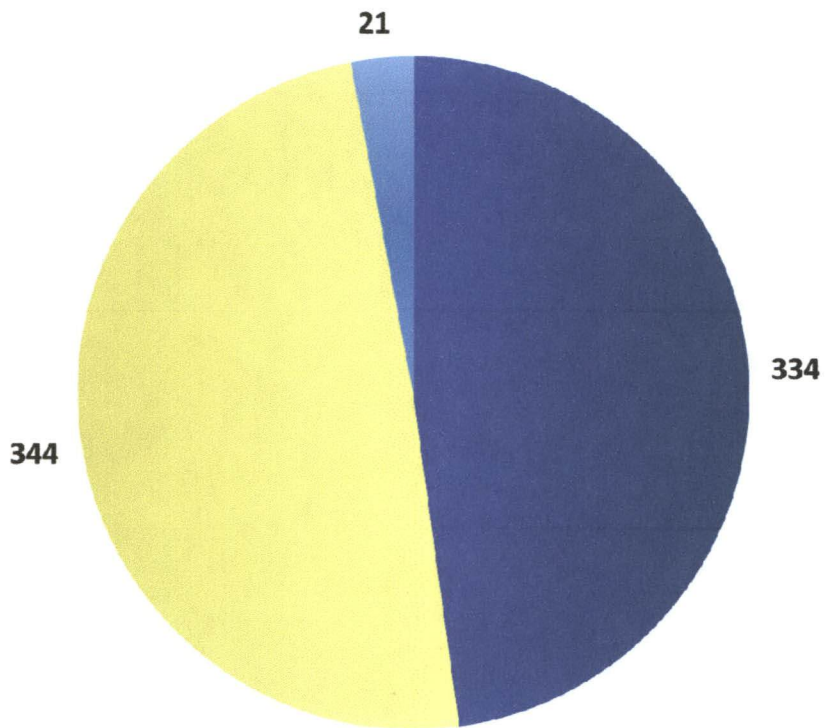
Rulemaking Committee

Chair: Terry Richardson

Members: Mary Merritt
Scott Promer

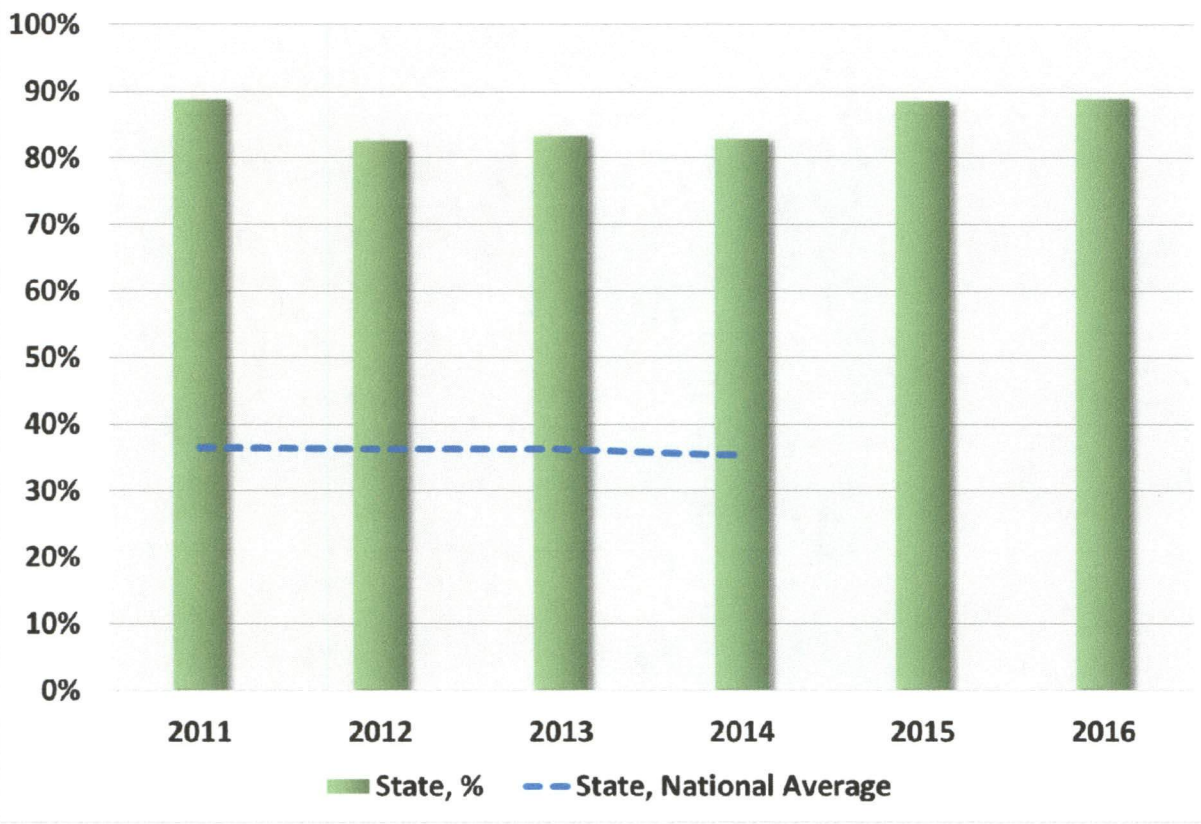
Attachment 4

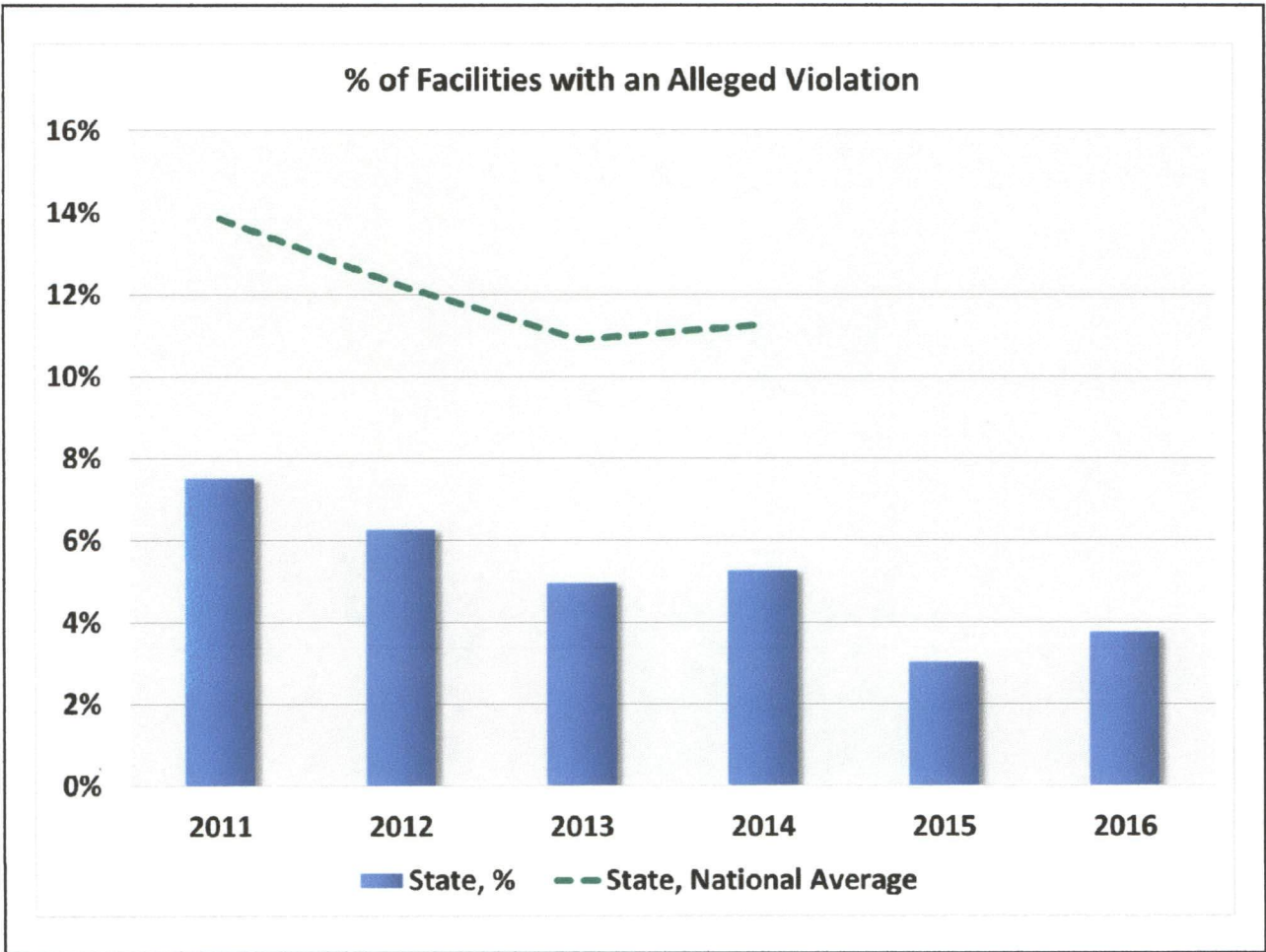
Number of Federally Reportable Facilities



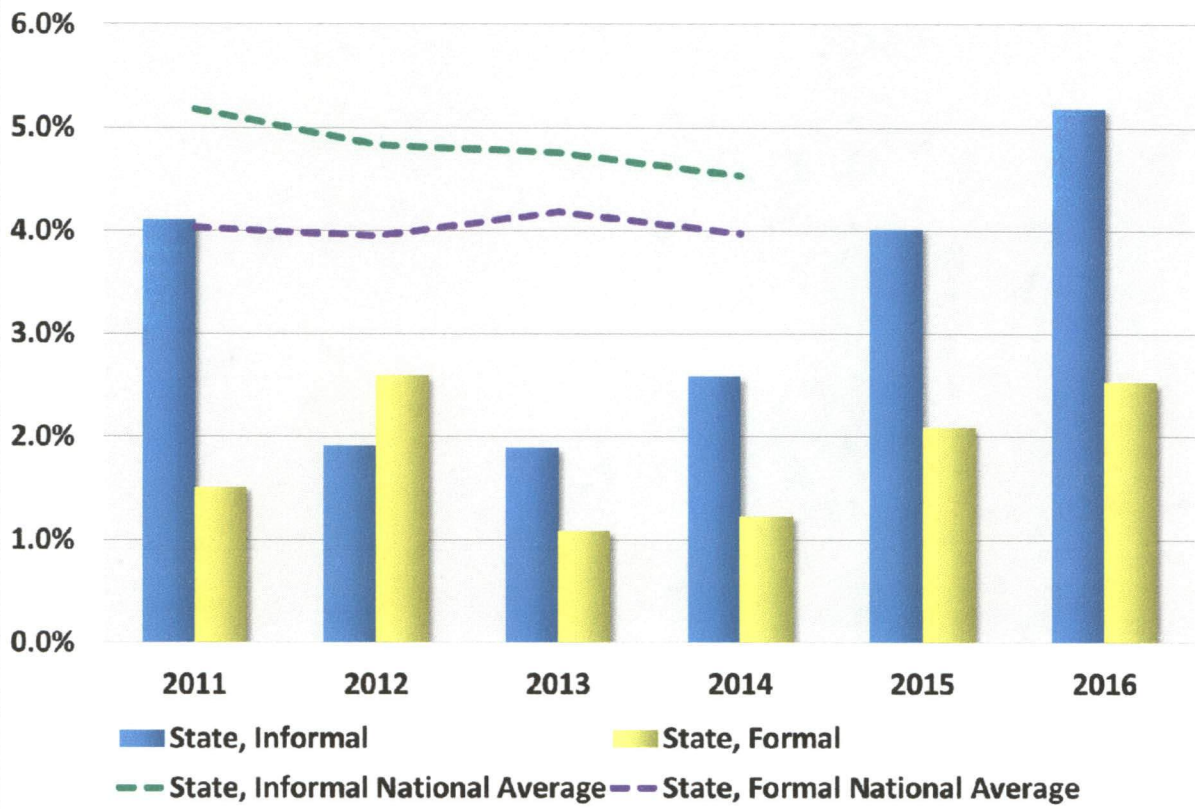
■ Major Facilities ■ Synthetic Minor Facilities ■ Minor/Other Facilities

% of Facilities with a Full Compliance Evaluation





% of All Facilities Subject to Enforcement



mm/dd/yyyy hh mm

*** Date/Time SSO Began:** 5/30/2017 10 15 AM

*** Is SSO currently ongoing?** Yes No

mm/dd/yyyy hh mm

*** Date/Time SSO Stopped:** 0 0 AM

Report Estimated Volume as Value Range

Was the Department verbally notified? Yes No
(If report online, verbal notification is not required)

Source of Discharge Event: manhole lift station broken line
 cleanout treatment plant other

Location of Discharge(address,etc)

*** Lat/Long of Discharge**

Latitude: Degree:Minute:Second

Longitude:

Known or Suspected Cause of Discharge

Ultimate Destination of Discharge ground absorbed
 creek or river (Provide name) Find Receiving Water
 Un-named Tributary
 storm drain
 drainage ditch
 backup into building/residence
 other (describe)

Did the Discharge reach swimming water? Yes No

Monitoring of the Receiving Water Is complete ongoing not necessary

Was the affected area cleaned? disinfected?

Describe corrective actions taken, plans to eliminate future discharges, and actions or plans to mitigate impacts to the environment and/or public health

Indicate Efforts to Notify Public (check all that apply) press release
 placement of signs

* **Date/Time SSO Began:**

mm/dd/yyyy

hh mm

5/30/2017



10

15

AM

* **Is SSO currently ongoing?**

Yes No

* **Date/Time SSO Stopped:**

mm/dd/yyyy

hh mm



0

0

AM

Report Estimated Volume as

Value Range

Was the Department verbally notified?

Yes No

(If report online, verbal notification is not required)

Source of Discharge Event:

manhole lift station broken line

cleanout treatment plant other

Ultimate Destination of Discharge

ground absorbed

creek or river (Provide name)

[Find Receiving Water](#)

Un-named Tributary

storm drain

drainage ditch

backup into building/residence

other (describe)

Did the Discharge reach swimming water?

Yes No

Monitoring of the Receiving Water Is

complete ongoing not necessary

Was the affected area

cleaned? disinfected?

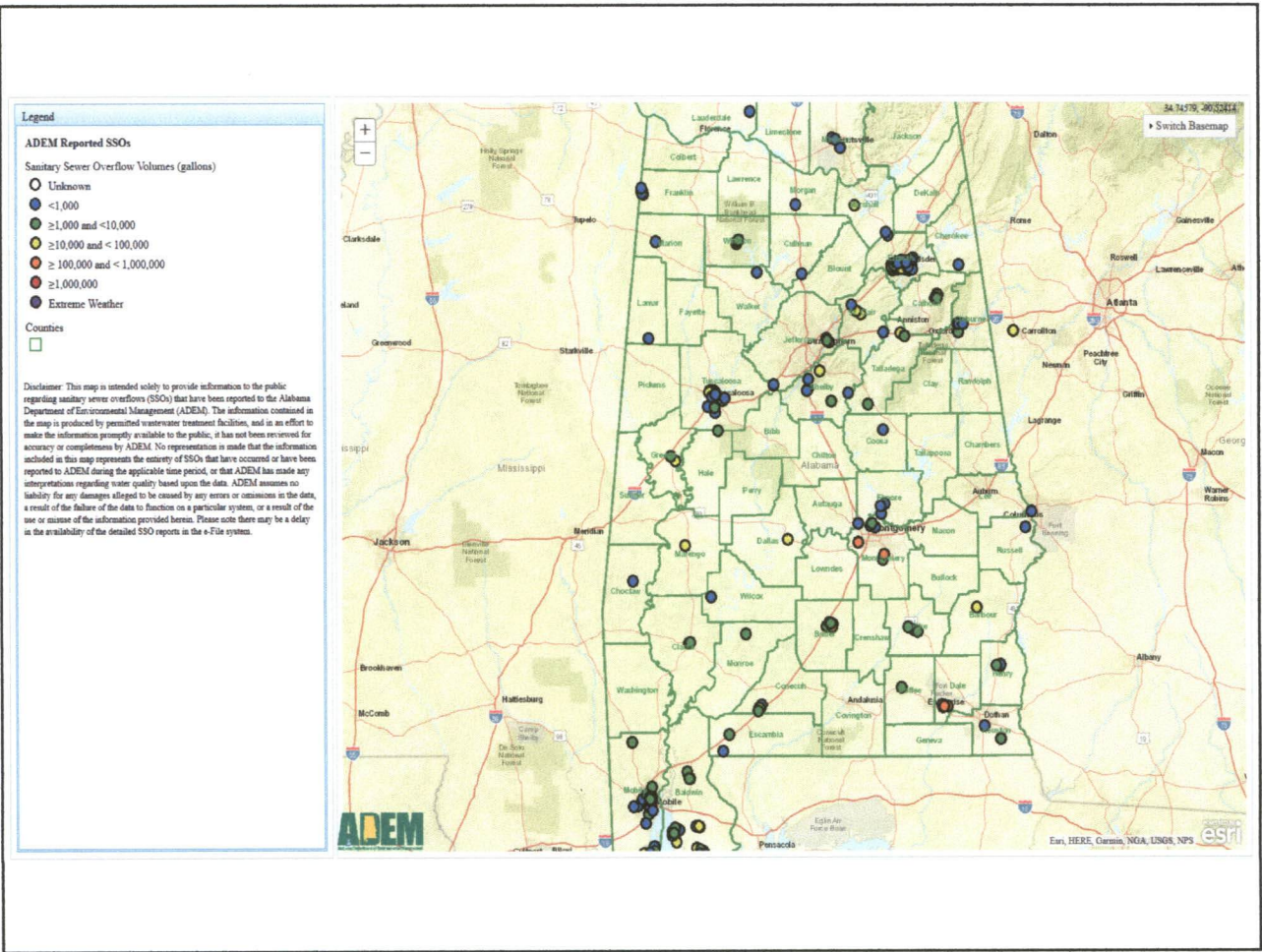
Describe corrective actions taken, plans to eliminate future discharges, and actions or plans to mitigate impacts to the environment and/or public health

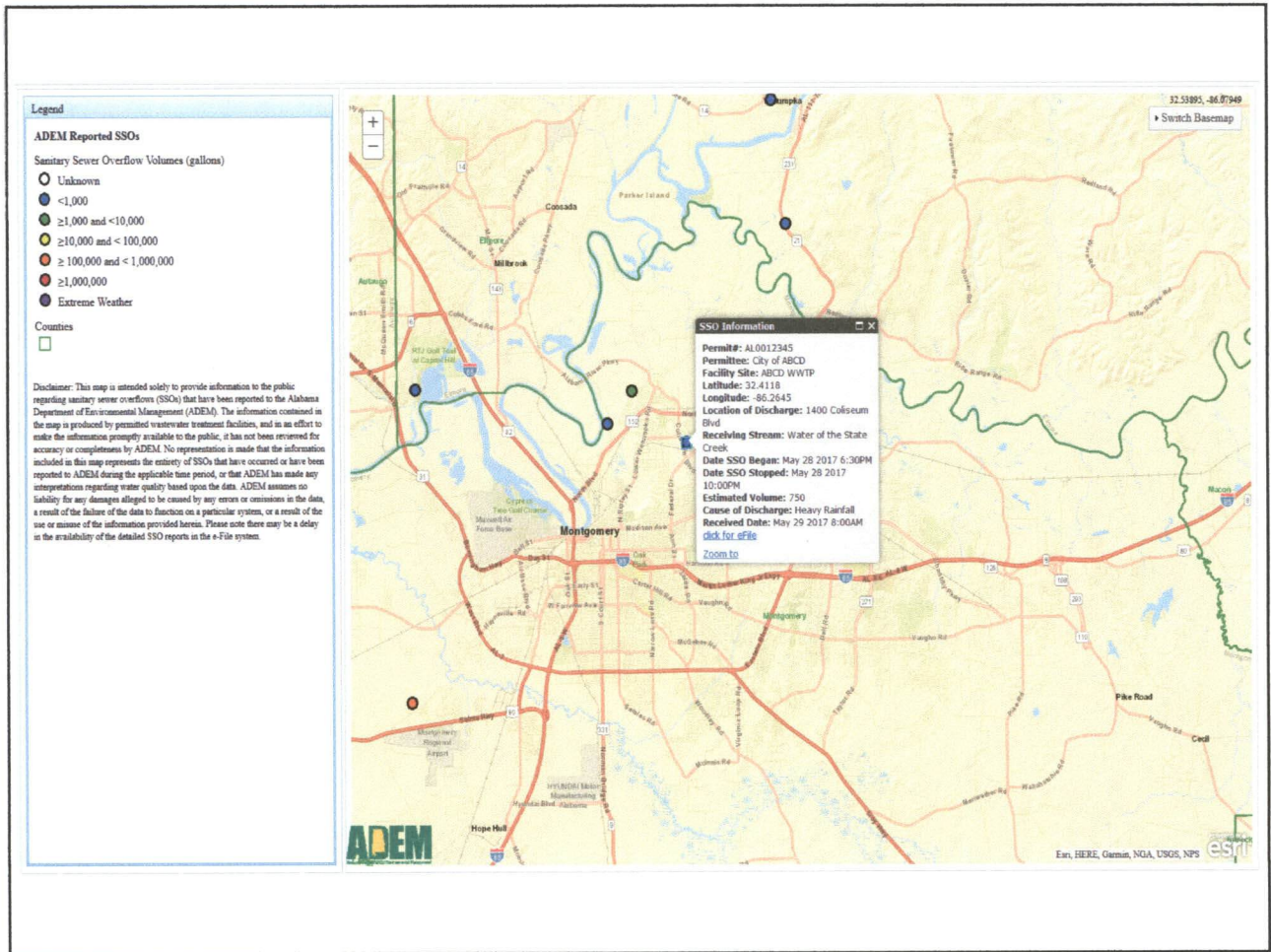
Indicate Efforts to Notify Public

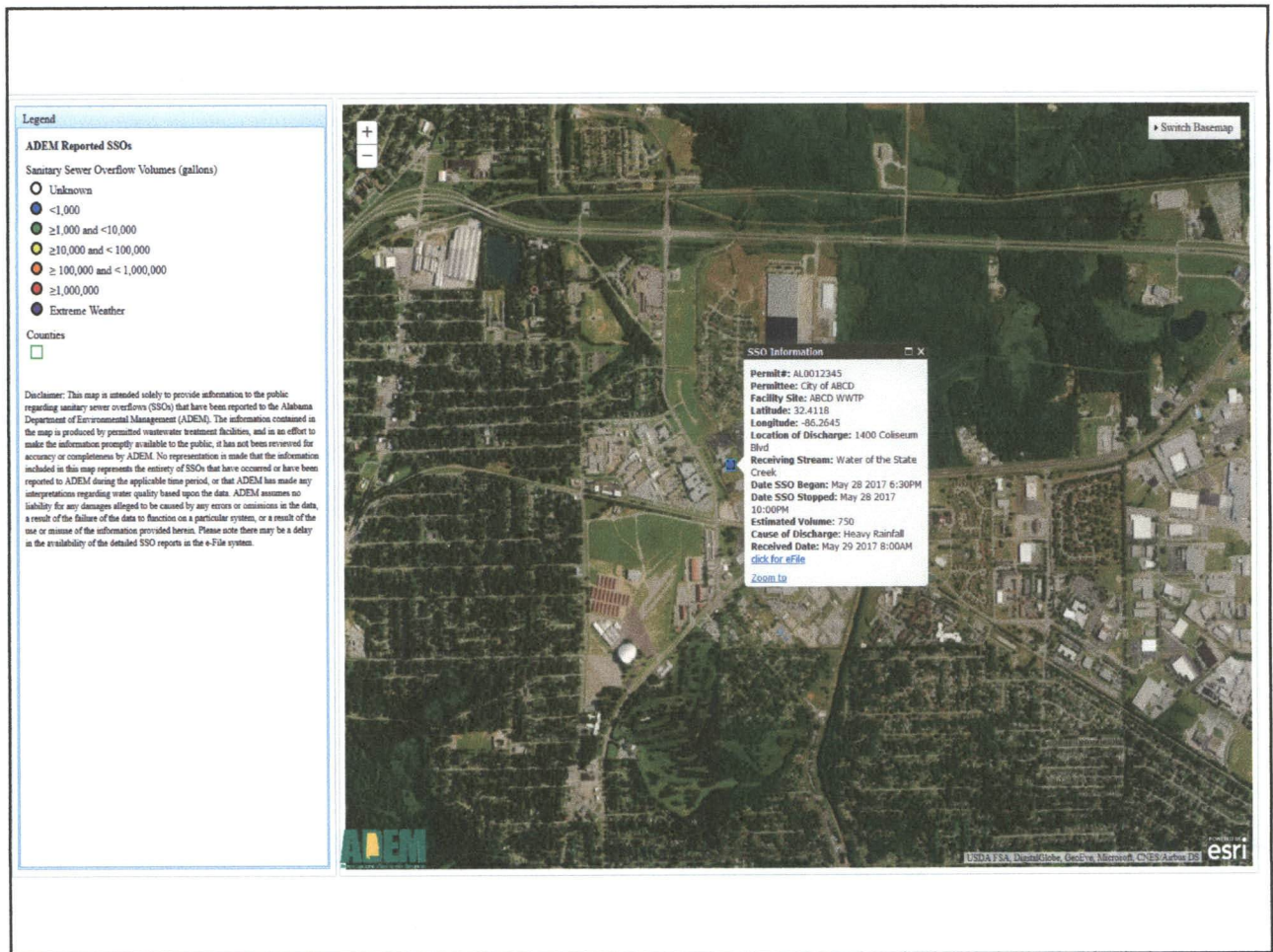
press release

(check all that apply)

placement of signs







Attachment 5

State of Alabama



RESOLUTION

WHEREAS, W. Scott Phillips served in the Certified by Water Well Association position of the Alabama Environmental Management Commission for 15 years, with his service on the Commission beginning on December 16, 2002 and ending on April 22, 2017; and

WHEREAS, due to his professional expertise in the environmental field, he provided experience, wisdom, and foresight in the Commission's deliberations on significant issues; and

WHEREAS, he served admirably in the leadership positions of Commission Chair and Vice-Chair, having served three terms as Chair and four and a half term as Vice-Chair; and

WHEREAS, during his tenure on the Commission, he also served as Chair of the Rulemaking and Strategic Planning Committees and as a Member of the Personnel, Rulemaking, and Strategic Planning Committees; and

WHEREAS, his dedication to effectively resolving environmental issues was accomplished at great personal effort and sacrifice; and

WHEREAS, his personable manner, cooperative spirit, and support for the efforts of the Commission and the Alabama Department of Environmental Management will be greatly missed by his fellow Commissioners, the Commission's legal counsel and assistant, and the Department's Director, supervisors, and staff; now

THEREFORE, BE IT RESOLVED that the Alabama Environmental Management Commission expresses gratitude to W. SCOTT PHILLIPS for his significant contribution to a better environment and an improved quality of life for the citizens of Alabama.

DONE this 16th day of June 2017.

Mary J. Bennett
James E. Dean
Terry D. Richardson
[Signature]

[Signature]

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 16th day of June 2017.

Terry D. Richardson
Terry D. Richardson, Vice Chair
Environmental Management Commission
Certified this 16th day of June 2017