

Amended 8/5/13

AGENDA\*  
MEETING OF THE  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: August 16, 2013

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](http://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 JUNE 21, 2013
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 335-3, AIR POLLUTION CONTROL PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Admin. Code Division 335-3, Air Pollution Control Program Regulations, Rules 335-3-1-.02, 335-3-10-.01, 335-3-10-.02, 335-3-11-.01, 335-3-11-.06, and Appendix C. Revisions to the Division 3 Code are being proposed to incorporate by reference changes to the EPA's New Source Performance Standards (NSPS), and National Emissions Standards for Hazardous Air Pollutants (NESHAPs). The definition of volatile organic compounds (VOCs) in Chapter 335-3-1 is also being proposed for revision to be consistent with EPA's revisions. Chapter 335-3-1 is considered part of the federally-enforceable State Implementation Plan (SIP). Revisions to this Chapter are proposed to be incorporated into Alabama's SIP. The Department held a public hearing on the proposed amendments on July 11, 2013.

5. EAST HUNTSVILLE/MADISON COUNTY CIVIC ASSOCIATION, INC. V. ADEM, AND VULCAN CONSTRUCTION MATERIALS, LP, EMC DOCKET NO. 13-01 (NPDES-RELATED MATTER)

The Commission will consider the Hearing Officer's "Order/Recommendation" on Respondent ADEM's and Intervenor Vulcan Construction Materials, LP's Motions to Strike and Dismiss in this appeal/request for hearing regarding ADEM's issuance of NPDES Permit No. AL0075507 to Vulcan Construction Materials, LP, Gurley Quarry, Madison County. This item was tabled to this meeting at the last meeting of the Commission on June 21, 2013.

6. OTHER BUSINESS
7. FUTURE BUSINESS SESSION

**PUBLIC COMMENT PERIOD**

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

**Request 1**

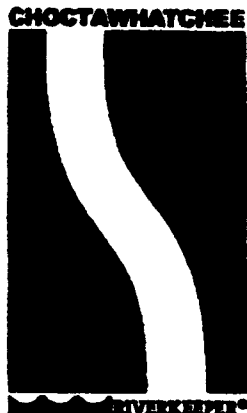
Michael William Mullen, Choctawhatchee Riverkeeper  
SUBJECT: Regulation of construction stormwater  
(Chair Brown will recommend that the Commission approve the request.)

**Request 2**

David A. Ludder, Esq.  
SUBJECT: Title VI Compliance at the  
Alabama Department of Environmental Management  
(Chair Brown will recommend that the Commission approve the request.)

**Request 3**

Mary Schaeffer and Benjamin Eaton,  
on behalf of Black Belt Citizens Fighting for Health and Justice  
SUBJECT: Arrowhead Landfill and the City of Uniontown's Wastewater Treatment Plant  
(Chair Brown will recommend that the Commission approve the request.)



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



July 27, 2013

Dear Chairman Brown:

I am writing to request approval for a presentation at the August 16th AEMC meeting. The presentation will address regulation of construction stormwater (CSW). It will show examples of noncompliance by a subset of CSW permit holders in the Troy area over approximately. Note that my observation is that almost every construction site that I have patrolled has had significant compliance issues and many have had offsite pollutant transport.

A good many of these CSW permit holders have been on the receiving end of compliance actions by ADEM. Despite this, in far too many instances, noncompliance has continued largely unabated for much too long - often months.

The fact that so many sites fall into noncompliance is an indication that ADEM has not created and is not creating general deterrence sufficient to achieve good rates of compliance by CSW permit holders. The fact that it often takes so long for return to compliance and that many permit holders are serial violators, repeating violations on site after site after site is an indication that ADEM has not created and is not creating general deterrence.

The presentation will show a few samples of failure to effectively enforce showing permitting and compliance enforcement actions over time and images from the sites over the same time periods. The PPP that will be used in the presenta-

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tion has been redacted to remove all permit numbers and permit holder names. What will be shown is part of a much larger PPP with almost 100 slides. I will be sending Ms. Thomas a separate e-mail with a link to a DropBox file with the larger presentation so that she might share that presentation with commissioners. At this time I am attaching a few introductory slides and an example of the format the remainder of the presentation will have.

Many in the environmental community have spent considerable time and resources over the years to document ADEM's failure to effectively enforce CSW permits and to convey that failure as well as suggestions for improvement to ADEM. To date there has been little in the way of effective response from the Department. It would almost seem that the Department does not want to effectively enforce CSW permits. This is unfortunate because the current situation does not utilize resources well as it leads to in some cases a necessity for repeated inspections and very numerous correspondence, calls and meetings.

Once again, on the afternoon of the August 16th meeting members of the environmental community will meet with the Director and staff. CSW permit compliance and effective enforcement will be one of the main topics of the meeting. There will be a request to the Department for it to begin to collect some data that will give an accurate depiction of the effectiveness of the CSW compliance enforcement efforts at the Department. Currently there does not appear to be any data captured that provides a true measurement of the effectiveness of compliance enforcement. As a result effectiveness is judged not by the degree to which compliance is occurring but rather by the number of activities—inspections, enforcement actions etc. This does not indicate what percentage of facilities are in compliance, how many repeat violations occur at sites, how many permit holders are serial violators or critically, how soon noncompliant sites are returned to compliance.

In addition some suggestions will be made both for changes to the permitting process and for compliance enforcement that very possibly could lead to increased compliance rates.

Respectively submitted,



Michael William Mullen, CPESC  
Choctawhatchee Riverkeeper

LAW OFFICE OF  
**DAVID A. LUDDER**  
A Professional Limited Liability Company



**FACSIMILE TRANSMITTAL**

<b>TO:</b> Chair, AEMC	<b>FAX NO.:</b> (334) 279-3052
<b>DATE:</b> July 31, 2013	<b>NO. PAGES:</b> 16
<b>MATTER:</b> Request to Speak at Aug 16 AEMC Meeting	
<b>SUBJECT:</b> Title VI Compliance at the Alabama Department of Environmental Management	

**MESSAGE:**

Please allow me time to address the AEMC on the above-referenced subject matter. Attached is a draft Powerpoint presentation which I expect to be the focus of my comments.

Thank you.

**BLACK BELT CITIZENS  
FIGHTING FOR HEALTH AND JUSTICE  
P.O. Box 523  
Uniontown, AL 36786**



August 1, 2013

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

Via Fax to 334-279-3052  
Total of 2 pages

**Re: Request to Address the Environmental Management Commission  
on August 16, 2013, regarding Arrowhead Landfill and  
the City of Uniontown's Wastewater Treatment Plant**

**Dear Chairman Brown:**

**Black Belt Citizens Fighting for Health and Justice is a non-profit organization of concerned citizens in Uniontown, Alabama. On behalf of our group, the two undersigned members hereby request to be placed on the agenda to address the Environmental Management Commission (EMC) at its next meeting to be held on August 16, 2013. We have two issues that we wish to bring before the EMC.**

**Regarding the Arrowhead Landfill, we will present to the EMC the test results obtained by Dr. Betsy Dobbins, Department of Biology, Samford University, from her water sampling of both surface run-off from the landfill and well water on Booker Gipson's property adjacent to the landfill. These test results reveal: a) elevated levels of conductivity, and b) elevated levels of arsenic.**

**We will request ADEM's immediate enforcement action against Arrowhead Landfill to prevent more toxic landfill contaminants from migrating offsite, as well as ADEM's further testing to identify and quantify all contaminants, damages and health risks, and ADEM's supervision and oversight of Arrowhead's remediation of the situation. Our citizens want to be kept fully informed of ADEM's and Arrowhead's actions and progress in this matter.**

Regarding the City of Uniontown's long-overdue and much-needed upgrades to its Wastewater Treatment Plant (WWTP), we will reiterate to the EMC our strenuous objections to the proposed location for construction of a second spray field. Mr. John Stevens, PE, Vice President of Sentell Engineering, Inc. in Tuscaloosa, Alabama, is the engineer in charge of this project. The proposed site, on the south side of Perry County Road 53 (coordinates of approximately 32-23.176N, 87-30.830W), is completely unsuitable for use as a wastewater spray field for many compelling reasons, which we will discuss in detail.


We will request ADEM's collaboration and support to facilitate finding a reasonable and appropriate alternative to resolve this issue for the long term for all the various stakeholders in the City of Uniontown's WWTP, before the grant and loan funds are mis-spent in building a new spray field that is doomed to fail.

We ask that you approve this request for the undersigned members of our group to speak on behalf of the Black Belt Citizens Fighting for Health and Justice and other Uniontown citizens. We appreciate your consideration of our request. Thank you very much.

Sincerely,



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