Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
October 15, 2010
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 October 15, 2010.

[Signature]
John H. Lester, D.V.M.
Chair
Environmental Management Commission

Certified this 10th day of December 2010.
Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
October 15, 2010

Convened: 11:00 a.m.
Adjourned: 11:30 a.m.

Part A
Transcript

Part B
Attachment Index
Attachments 1 – 6
Part A
AEMC COMMISSION MEETING - 10/15/2010

PROCEEDINGS

DR. LESTER: At this time, we will call this meeting to order. And I'd like to acknowledge that we have a quorum present.

Short quorum, but we do have one.

And at this time, I'd like our Director, Mr. LeFleur, to come and introduce our three new members, and then he has another introduction that he would like to make.

MR. LeFLEUR: Thank you, Chairman.

I am pleased to announce that the Governor has appointed three new Commissioners, one of whom is with us today. Dr. Sam Miller.

He is filling the position of Conrad Pierce as our physician on the Commission.

And welcome. Welcome to you.

We have two other Commissioners who were named very recently. So they had scheduling conflicts that wouldn't allow them to be here.

But they are Marquita Davis, who

[Additional text not visible in the image]
AEMC COMMISSION MEETING - 10/15/2010

that's Glenda Dean.
Glenda, would you please stand up.
Glenda is highly respected to both inside the Department and outside in the regulated community and I believe also in the environmental community. So I'm very pleased to have that opportunity to have such a wealth of people in the Department to fill these positions.
Chairman.
DR. LESTER: Thank you.
I'd like to say we as Commission Members appreciate the help that we get from other -- the other two, when they get here. But we've been sort of short. And we have one out and there's only five of us, then that puts the other two -- we've got to have at least four. So we do appreciate you being here again.
DR. MILLER: Thank you.
DR. LESTER: Since he is an orthopedic surgeon -- he's from Montgomery. He won't have far to go, and he can look after all of us in our older age.
My next item of business is a consideration of the minutes for our August 27th meeting. Do I have a motion?
MR. BROWN: Move to adopt it.
DR. RICHARDSON: Second.
DR. LESTER: Been seconded. All in favor, say aye.
(Aye.)
DR. LESTER: All opposed?
(No response.)
DR. LESTER: At this time of the year, we have our first meeting. We have election of officers. At this time, I would entertain a motion for -- from the Commission on the election of the Chair.
DR. RICHARDSON: Mr. Chair, I move to nominate John Lester as Chair of the Commission.
MR. BROWN: Second.
DR. LESTER: Been seconded. All in favor, say aye.
(Aye.)
DR. LESTER: All opposed?
(No response.)
DR. LESTER: Since we're going to have three new members and -- maybe by our December meeting, we'll have everybody here, and also the new members can find out what all we're talking about on these committee assignments. At this time, I'll call on the Director for his report.
MR. LeFLEUR: Thank you, Mr. Chairman.
Once again, welcome. The new members are like me. When you first begin with this, some of the acronyms are a little.
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<td>1. challenging to try to remember. So I'll try to use as few of those as I can in this report. We've started off the last several meetings with a report on the deep water horizon oil spill update. And let me -- let me do that again today, if I may. As you are probably aware, the deep water horizon well was capped on July the 15th, and the final bottom kill, as it's called, occurred on -- about two months later, on September the 19th. There's been no skimmable oil in the Gulf since July the 28th. Sampling and testing the water, sediment, and fish tissues continues. There have been more than 25,000 water samples taken and tested by ADEM, EPA, NOAA, FDA, or independent labs, and there has been no indication of any potential human health impacts. Fish tissue testing on more than 6,000 samples has shown no detectable levels of oil or dispersants or any of their components. So things are looking -- looking well in that area. The sampling and testing will be continuing for several years to come. Beach cleaning operations -- which was the major impact to our shoreline. Beach cleaning operations continue at Orange Beach, Gulf Shores, and Dauphin Island under the direction of ADEM. Intermittent stranded tar balls and buried tar mats are the main focus, with occasional new tar ball landings which require spot treatments. The final cleanup is anticipated to be complete by year end at Orange Beach and with Gulf Shores and Dauphin Island to be completed shortly thereafter. The claims process related to the oil spill has been more cumbersome than anyone would like to have it be. However, there's been marginal improvements, as are evident with more than 30 million -- 230 million dollars in individual claims and more than a hundred million dollars of governmental claims paid to date in Alabama. It's recently accelerated, and we're hopeful that that process will become more smooth as time goes by.</td>
<td>1. Tourism and seafood industries continue to suffer due to the unfavorable perceptions of consumers. This has been the major impact to our economy in that area, seafood industry and tourism industry. We will continue to work with the Tourism and Travel Department to deal with misperceptions and try to address it at a number of conferences and some of the trade shows, where we hope to dispel some of these misperceptions about what's going on our our coastline. One final item on the oil spill. The Governor has appointed a Coastal Recovery Commission comprised of community leaders from business, academia, environmental, health, fishing, communications, and other areas to provide a frame work to move forward in creating a more resilient coastal area. ADEM is represented on that commission. And the results of their work are to be presented to the Governor and the governor-elect on December the 15th. That's the target date for that final report to come in.</td>
<td>1. You should have received memos from me recently on the outlook for rule making through the spring of 2011. As we're able to see out into the future, we try to keep you up to date on what's coming down the road on that. You also have a list of recently executed contracts that have involved ADEM. You should also have received a memo referencing a number of issues currently facing ADEM in the Land, Air, Water, and Field Operations Divisions. I welcome any questions that you may have concerning those memos. We're now beginning the 2011 budget year. And this is the budget you've seen described in the newspapers as a train wreck, and we at ADEM are going to have to manage accordingly. In addition to meeting the -- essentially the same program commitments as last year, ADEM will be required to meet several new mandates within this year's already strained budget. I'll keep you closely informed as we progress. I'm hopeful that the sound management</td>
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practices that ADEM has employed over the past few years will carry the day for us once again. As has been previously noted, in fiscal year 2010, the actual state general fund revenue received by ADEM was below the budgeted revenue to be received. And in fiscal year 2011, we anticipate that funding will be below the fiscal year 2010 level.

On the federal level, Congress is currently operating under the continuing resolution. So we will have basically the same federal funding that we’ve had for the last four years. Bottom line is that we’re going to, like many agencies of government, strapped to meet our obligations within the budgets that we have available. We have a number of challenges coming this new fiscal year. And for our new commissioner and the others as they read these minutes, I’d like to review some of the challenges that we expect to meet during fiscal year 2011 as we go through our divisions.

In the Air Division, we have new ozone standards that we expect will be out later this month, and there will be some dramatic impacts depending on what level those standards are set. We’re also anticipating new nitrogen -- nitrogen -- oxides of nitrogen and sulphur. To have new standards there that will be brought in to play shortly after the first of the year, as will some climate change regulations, greenhouse gasses, and that sort of air.

We also have some new maximum achievable control technology, or MAC, standards that are being set for boilers in various industries throughout the state. And they will have to be implemented when they are developed finally. There’s a lot of public commentary going on about those right now.

In the Land Division, coal ash regulations are probably top of the list for the challenges this coming year. The coal ash regulations have been on public notice, and they will meet that process in November -- November 20th. So far they’ve received over 88,000 comments. So it’s a very high-profile set of regulations that are being considered. They have to -- have a number of other hazardous waste regulations that are being worked on this year. Once those regulations are in place, we will have the obligation to implement those at ADEM.

The Water Division. This is where we probably have the most challenges coming at us. General stormwater permits, a draft of which is out for public input. We have new nutrient standards for various streams and rivers throughout the state. We’ve completed -- most of the reservoirs have already had their nutrient standards set. There are several more that will be completed by the end of the year.

Municipal separate stormwater sewer systems. And you’ll hear us refer to that as MS4. You’ve read some editorials concerning the MS4 permits recently in several of the newspapers. And I mention this because we’re going through a process now developing that program, and we’re working to balance guidance from EPA. EPA provides written guidance. It’s not regulations. It’s not statute, but guidance concerning MS4s and trying to balance the guidance from the EPA with legitimate concerns that the impact of municipalities are going to be seeing.

As you’re -- as the Commissioners who have been here for some time are well aware, this can be a contentious process and maybe the subject of some very public debate. So that you can look forward to -- to reading more about that, I’m sure.

In Field Operations Division, we’ll continue to work on response to the deep water horizon oil spill and its remediation for the next year, and most likely we’ll have heavy involvement in that for the next several years.

The Permits and Services Division. ADEM will continue to be a leader in helping EPA sort out electronic data transfers, and we’ll be having a major effort to expand our eGov applications. Partly because it helps us with effectiveness, and it also helps us deal

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with shrinking budgets. And I'll be mentioning this effort, to work with EPA, to help with the electronic data transfers in just a moment.

We have a number of challenges, but there's also been some ongoing commitments. And I have to say I have considerable confidence that we'll be able to meet these challenges because of ADEM's performance in the past. But I'd like to give you a few examples of accomplishments that have taken place in the last year.

Electronic DMR participation, that's daily monitoring reports for water -- participation has grown from approximately 200 at the beginning of the year to more than 500 participants now. This is one of our major areas of emphasis. We think that this can help both accuracy and cost effectiveness in our program there.

Cleanup of over $350,000 worth of scrap tire sites and over $1.7 worth of illegal dump sites has been initiated. We continue to be ahead of schedule in the Anniston Army Depot Weapons disposal program. They continue to have an exemplary safety record. They've maintained that through this entire process. We anticipate that the primary mission will be completed next fall, which will be well ahead of schedule.

They're into the mustard gas phase, which is the least toxic of the munitions that have been disposed of in that area. Hats off to our people on -- a lot of good work there.

ADEM has achieved a dramatic increase in the number of inspections in compliance evaluations across the board, which has not only shortened the time to bring new violations into compliance, but has nearly eliminated the backlog that stretched back as much as two years. This has been one of the major items for discussion among many of our environmental friends. The speed at which we identify violations and then the speed at which we have those violations brought into compliance is a critical piece of our mandate, and we made considerable progress on that.

Finally, the Jefferson County 24-hour fine particle non-attainment designation has now been moved to attainment status. There's some thought that we may be able to reach the annual attainment status by the end of the year. We'll have to wait and see how that one works out.

It's also worthy to note that ADEM has already begun work on meeting a number of EPA's priorities. And a good example of that is the nutrient standards that have been developed for the reservoirs and are now being worked on for the streams and for rivers in the state. And this is well ahead of the schedule, since EPA has not even officially announced those standards at this time.

An area within the Department that I'd like to highlight includes work done in the area of e-government. And I mentioned earlier that -- this data management issue I want to come back to.

There's a display board out in the lobby. And when you have an opportunity, I'd like for you to take a look at it. But it highlights this effort.

ADEM has been the lead among the states in getting electronic data transfer to EPA, which is where everybody is looking to go. However, EPA has been having difficulty receiving data. And because we are the leader of the states in this region, EPA has been working closely with us to help them walk through the process.

And I would like to recognize that -- a few people who have been at the forefront of this. This is a real point of pride for the Department, and I think that --

David Hutchinson, are you here? I don't see him.

But he and Eric Cleckler and Janet Edwards have been the leads in this, along with many other people, obviously. But when you have other states and the EPA calling ADEM for help in undertaking that program, it's a sign of -- something is being done right there.

That's my report for today. I
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<td>DR. LESTER: Is there any other</td>
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<td>business from the Commission?</td>
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<td>3</td>
<td>(No response.)</td>
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<td>DR. LESTER: The future meeting</td>
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<td>5</td>
<td>will be December the 10th. We'll need</td>
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<td>Commissioners to check your schedules to see if</td>
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<td>you have problems with it. It will be at</td>
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<td>10 a.m. on December the 10th.</td>
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<td>MS. THOMAS: Did you say 11?</td>
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<td>11:00 will be the meeting time.</td>
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<td>11</td>
<td>DR. LESTER: 11:00 on the 10th.</td>
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<td>12</td>
<td>MS. THOMAS: Yes, sir. Thank you.</td>
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<td>DR. LESTER: And I want to</td>
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<td>entertain a motion to adjourn.</td>
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<td>DR. RICHARDSON: So moved.</td>
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<td>DR. LESTER: Motion seconded?</td>
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<td>17</td>
<td>DR. MILLER: 1 second.</td>
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<td>18</td>
<td>DR. LESTER: Second.</td>
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<td>All in favor, say aye.</td>
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<td>(Aye.)</td>
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<td>DR. LESTER: None opposed.</td>
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<td>11:30 a.m.</td>
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<td>END OF PROCEEDING</td>
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want to express my gratitude for the Commission for allowing me to serve in this capacity. I look forward to working with you in the future.

Mr. Director,

Any Commissioners have a question for Mr. LeFleur?

(No response.)

DR. LESTER: Mr. LeFleur --

MR. LEFLEUR: Okay. Thank you, gentlemen.

DR. LESTER: The next item of business is -- we've had three Commissioners that are -- we'll call them now former Commissioners that -- we'd like to send a resolution to each one of them.

One will go to Mr. Wainwright. He served in the engineering position on the Commission from December 1998 to September 2010 and held the office of Vice Chairman from October '08 to October '09.

Dr. Pierce was appointed to the physician position in April of 2009. Completed that term, serving until September '10.

Ms. Archie served as member at large position on the Commission from October '06 until May of 2010 and held the Chair from October '09 until her resignation.

Do I have a motion that we will adopt these resolutions?

MR. BROWN: So moved.

DR. RICHARDSON: Second.

DR. LESTER: Motion to second.

All in favor, say aye.

(Aye.)

DR. LESTER: All opposed?

(No response.)

DR. LESTER: Are we supposed to sign the --

MS. THOMAS: Yes, sir. Please.

DR. LESTER: The next item is to acknowledge Petitioner De Nora Tech, Incorporated withdrawal of request for a hearing. We'll make a note of that.

MS. THOMAS: Just make note for the record is all you need to do. Thank you.

CERTIFICATE

STATE OF ALABAMA )

MONTGOMERY COUNTY )

I hereby certify that the above and foregoing proceeding was taken down by me in stenotype, and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the proceeding given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

I further certify that I am duly licensed by the Alabama Board of Court Reporting as a Certified Court Reporter as evidenced by the ACCR number following my name below.

GWENDOLYN P. TIMBIE, CCR

Certificate No: AL-CCR-172

My commission expires March 10, 2013.

6 (Pages 21 to 24)
CERTIFICATE

STATE OF ALABAMA )
MONTGOMERY COUNTY )

I hereby certify that the above and foregoing proceeding was taken down by me in stenotype, and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the proceeding given by said witness upon said hearing.

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GWENDOLYN P. TIMBIE, CCR

Certificate No: AL-CCR-172

My commission expires March 10, 2013.
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<td>Order adopting motion postponing Committee elections until the December meeting (Agenda Item 2 – Elections)</td>
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<td>Resolution for former Commissioner Anita L. Archie (Agenda Item 4 – Report from the Commission Chair)</td>
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Attachment 1
AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: October 15, 2010
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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<td>5. De Nora Tech, Inc. v. ADEM EMC Docket No. 10-05</td>
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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 AUGUST 27, 2010

2. ELECTIONS

3. REPORT FROM THE DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

5. DE NORA TECH, INC. V. ADEM, EMC DOCKET NO. 10-05

   The Commission will acknowledge Petitioner De Nora Tech, Inc.’s withdrawal of its request for hearing. The administrative action appealed in this matter is ADEM’s denial by letter dated February 22, 2010, of De Nora Tech, Inc.’s request to utilize the financial test to replace DNT’s existing Letter of Credit as a financial assurance mechanism for the former Eltech Colbert County Facility in Colbert County, Alabama, EPA ID No. ALD 067 110 676.

6. OTHER BUSINESS

7. FUTURE BUSINESS SESSION
Attachment 2
BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTIONS

Elect John Lester as Chair

Elect Lanier Brown as Vice Chair

ORDER

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

1. That the above motions are 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 15th day of October 2010.

APPROVED:

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

DISAPPROVED:

[Signature]
Commissioner

[Signature]
Commissioner

ABSTAINED:

[Signature]
Commissioner

[Signature]
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 15th day of October 2010.

Chair
Environmental Management Commission
Certified this 15th day of October 2010
BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Postpone Committee elections until the December meeting

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 15th day of October 2010.

APPROVED:

[Signatures]

DISAPPROVED:

[Signatures]

ABSTAINED:

[Signatures]

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 15th day of October 2010.

[Signature]
Chair
Environmental Management Commission
Certified this 15th day of October 2010
Attachment 4
RESOLUTION

WHEREAS, Sam H. Wainwright, P.E. served as a member of the Alabama Environmental Management Commission in the engineer position from December 1998 until September 2010; and

WHEREAS, he provided experience, wisdom, and foresight in the Commission’s deliberations on significant issues; and

WHEREAS, his leadership abilities were recognized by his election as Vice Chair of the Commission in October 2008, a position he held until October 2009; and

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

THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses gratitude to Sam H. Wainwright, P.E. for his significant contribution to a better environment and an improved quality of life for the citizens of Alabama.

DONE this 15th day of October 2010.

[Signatures]

[Signatures]
Attachment 5
RESOLUTION

WHEREAS, J. Conrad Pierce, M.D. served as a member of the Alabama Environmental Management Commission in the physician position from April 2009 until September 2010; and

WHEREAS, he provided experience, wisdom, and foresight in the Commission’s deliberations on significant issues; and

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

THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses gratitude to J. Conrad Pierce, M.D. for his significant contribution to a better environment and an improved quality of life for the citizens of Alabama.

DONE this 15th day of October 2010.

[Signatures]

[Signatures]
State of Alabama

RESOLUTION

WHEREAS, Anita L. Archie served as a member of the Alabama Environmental Management Commission in the member at large position from October 2006 until May 2010; and

WHEREAS, she provided experience, wisdom, and foresight in the Commission's deliberations on significant issues; and

WHEREAS, her leadership abilities were recognized by her election as Chair of the Commission in October 2009, a position she held until May 2010; and

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

THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses gratitude to Anita L. Archie for her significant contribution to a better environment and an improved quality of life for the citizens of Alabama.

DONE this 15th day of October 2010.

[Signatures]