Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 18, 2019
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 18, 2019.

Samuel L. Miller, Chair
Alabama Environmental Management Commission

Certified this 13th day of December 2019.
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1400 Coliseum Boulevard
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Convened: 11:05 a.m.
Adjourned: 12:00 p.m.

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Part A
WHEREUPON, proceedings began at 11:05 a.m.
CHAIRMAN MILLER: Morning. This is a very nice crowd this morning. That's good to see.
I'm going to call the Commission meeting to order.
VICE CHAIR BROWN: Can I sit down first?
CHAIRMAN MILLER: Please do.
Please.
(Audience laughter.)
CHAIRMAN MILLER: Our first item is consideration of minutes for the meeting held on August 16th. These have been circulated to all the Commission members for their perusal. Do I have a motion that we adopt those minutes?
MR. MASINGILL: Move to adopt the minutes.
VICE CHAIR BROWN: Second.
CHAIRMAN MILLER: Any further discussion?

(No response.)
CHAIRMAN MILLER: All right.
All in favor, please say "aye."
(All Commission members signify with "aye.")
CHAIRMAN MILLER: All opposed, "no."
(No response.)
CHAIRMAN MILLER: Okay. Our next item on the agenda is the election of the Chairman and Vice Chairman for this coming year.
And I will open the floor for nominations.
MR. WALTERS: I move to accept Dr. Sam Miller as Chair of the Commission.
MS. MERRITT: And I second.
CHAIRMAN MILLER: Any other nominations?
(No response.)
CHAIRMAN MILLER: All right.
Let's call for the question. All in favor, say "aye."
(All Commission members signify with "aye.")
1. CHAIRMAN MILLER: Opposed, "no."
   (No response.)
2. CHAIRMAN MILLER: We also need
to elect a Vice Chairman of the Commission.
And I will open the floor for
nominations. Anyone?
7. MS. MERRITT: I move that we
accept Lanier Brown as Vice Chair.
10. CHAIRMAN MILLER: Any other
nominations?
   (No response.)
12. CHAIRMAN MILLER: If not, let's
call for the question. All in favor, say "aye."
(All Commission members signify
with "aye.")
17. CHAIRMAN MILLER: All opposed,
"no."
18. (No response.)
20. CHAIRMAN MILLER: The ayes have
it.
22. I'd now like to call on the Director
for his report to the Commission.

1. DIRECTOR LeFLEUR:
2. Congratulations -- or condolences, as the case
   may be.
4. Good morning. Welcome to all
   present for the first meeting of the Alabama
Environmental Management Commission for fiscal
year 2020. Today's report will review the
8. Department's operating plan results for FY 2019
9. and the new FY 2020 plan; review activities
10. related to wastewater infrastructure in Alabama;
11. and notify you of two recent legal matters
12. involving the Department.
13. Let's see here. Please turn on my
15. Top performance begins with a plan.
16. In 2019, the Department and the Commission
17. updated the Unified Strategic Plan, as is done
18. every five years. Each fiscal year, the
19. Department updates its Annual Operating Plan
20. which addresses the same goals reflected in the
21. unified five-year strategic plan. The strategic
22. plan and annual operating plan shared goals are:
23. Effective and responsive Commission,
increase the Department's FY 2020 General Fund appropriation from $575,000 to $4 million. In FY 2019, the Department was also successful in obtaining other financial resources in addition to our General Fund appropriation. We were successful in obtaining $5.9 million in RESTORE Act funding for a new Field Office in Mobile. We were also awarded a competitive $200,000 exchange network grant by EPA to increase Departmental efficiency through e-enterprise. The FY 2020 plan calls for completion of the Birmingham lab renovations, and significant progress on both the Mobile Field Office development and the computer software upgrades currently underway. In the human resource management effort to promote a high-performing work environment, the Department has continued to recruit interns and co-op students with the objective of encouraging the most talented candidates to become permanent employees when they graduate. The Department has and will continue to focus on recruiting and advancing diversity within the Department through specific initiatives.

An ongoing objective in the management of human resources is to promote professional development of our workforce, which is necessary to support a high performance organization. The 2020 Operating Plan continues a leadership training program developed in 2019 in cooperation with Auburn University Montgomery which is dedicated to training ADEM professional staff who have not yet become managers. More than 60 individuals have already completed the voluntary leadership training program. Additionally, in 2020 the Department will begin providing specialized accreditation training to assist our personnel seeking to achieve the Professional Engineer and Professional Geologist designations. These initiatives are intended to help develop and retain more of our high achieving individuals. Also within this broad goal of promoting a high-performing work environment, we continue the practice of regularly using objective relevant data to measure work performance. This is accomplished in part by presenting updated EPA dashboard analyses for the air, water, hazardous waste, and drinking water programs at Commission meetings. While these metrics are presented to keep the Commission and the public informed about performance, as importantly, the dashboards are used by the Department to track results, which is a necessary activity if we are to continue being a high performing organization.

Finally, innovation is an important objective within the goal of achieving a high-performing work environment. More on that later in this report. Maintaining a high performance organization requires continual improvement. Thus, we seek not just to maintain excellence, but to do even better whenever possible. Nearly all of the objectives in the High-Performing Work Environment goal, which include providing financial, physical, and human resources, using data-driven performance measures and, promoting innovation, are ongoing endeavors that continue to move us forward but, by their nature, are never fully completed. For that reason, a number of the objectives for FY 2020 within this broad goal remain the same as they were in FY 2019.

The third broad goal is Credible Relationships with External Stakeholders. This operating plan objective includes meetings twice per year with industry groups and meetings with elected officials, civic groups and any group or individual interested in working with the Department on environmental issues. In FY 2020, we are also seeking to improve our outreach to media by working with outside experts in media relations.

Other specific community stakeholder groups reached out to will continue to include low income, minority, and disadvantaged communities. Many of ADEM's outreach activities are detailed in a document entitled "Community Engagement" shown on the screen and available on our website. Updates on the Department's Environmental Justice program will be included periodically in my reports to the Commission.
The FY 2020 Operating Plan continues objectives to build credible relationships with outside stakeholders by increasing awareness of and encouraging the public to use our electronic tools. The eMaps, eFile, eComplaint and "What's Happening In Your County" applications are available on our website to help citizens voice their concerns and access information about their specific geographic areas of interest. These tools are continually being updated and improved. Two other examples of outreach to build credible relationships with external stakeholders are: targeted outreach to municipal wastewater treatment systems, which will be highlighted later in this report; and, a drinking water quality assurance outreach to all Alabama public schools including Pre-K and daycare facilities.

Altogether, the goal of Credible Relationships with External Stakeholders includes 22 separate objectives in FY 2020. The fourth and final ADEM Operating Plan Goal is efficient and effective Departmental

Operations. This is a critical element in the Department's efforts to provide cost effective services to Alabama citizens. A coordinated team effort is necessary to accomplish goals within any organization. And that requires effective communication. Specific objectives addressing both formal and informal means of internal communication are part of the plan.

A major objective under this goal is to meet or exceed the detailed annual work plan commitments with EPA. This was accomplished in FY 2019 and continues to be an objective for FY 2020.

Another important objective within the broad goal of Effective and Efficient Departmental Operations is to incorporate more e-enterprise and e-business applications. ADEM has invested considerable resources in electronic tools for public outreach and also to improve the efficiency of our day-to-day work output. That investment has allowed us to become the lowest cost provider of environmental regulation in the nation while maintaining among the highest quality performance in the nation. For FY 2020, the most significant new endeavor in this arena will be upgrading nearly all of our major internal electronic data entry, reporting and performance tracking programs to the latest generation of computer software.

The software upgrades are part of our move to greater automation through electronic applications designed to improve efficiency, which allows us to operate at a high level of performance despite having a very tight budget. A more complete rundown on progress in meeting our FY 2019 Operating Plan objectives is available in the six ADEM Update reports, mentioned earlier, that were prepared during FY 2019. Once again, these are available on the ADEM website. Copies of the FY 2020 Departmental Operating Plan have been provided to you, and additional copies are available on the table outside the meeting room for others who may be interested.

While development of the Department's Operating Plan is an annual activity, many of the initiatives focus on the long term. In particular, three of the initiatives in this plan, namely, the replacement of ADEM's woefully outdated Mobile Field Office and Coastal Program facilities, completion of the renovation of ADEM's Birmingham Field Office, especially the lab, and installing the latest generation of computer software in the Air, Land, and Water divisions represent major steps that position the Department to continue high performance for the long term despite extremely low funding.

A few moments ago I mentioned the Department's targeted outreach efforts to assist municipal wastewater treatment facilities. I would like to use this next portion of today's report to focus on municipal wastewater systems. We have all heard about crumbling infrastructure throughout the nation. Municipal wastewater treatment systems are at the forefront of infrastructure challenges today in our nation and in Alabama -- in particular, wastewater treatment systems in small communities. The declining
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| 1 | condition of wastewater infrastructure makes municipal wastewater facilities perhaps the most problematic sector for environmental compliance. After highlighting some of the factors contributing to non-compliance by wastewater systems, the remainder of today's report will describe some of the innovative initiatives the Department is leading to proactively help address this pressing environmental and quality of life issue here in Alabama. We begin with some common factors contributing to non-compliance by municipal wastewater systems. Wastewater treatment systems are costly to build, operate, and maintain. Wastewater treatment systems require a number of sequential collection and treatment processes to effectively remove pollutants and protect the environment. The first step involves costly collection system investments, in the form of sanitary sewer lines, lift stations, and force mains. The treatment steps for municipal wastewater often require large investments in treatment processes and equipment. The wastewater treatment system often consumes large amounts of energy. And the collection system and wastewater water treatment processes typically require high operation and maintenance costs. Over time, these systems have also required expensive technology upgrades which have been driven by: New or increasingly tighter discharge limits, particularly for compounds containing phosphorus and nitrogen, which are pervasive nutrients that can degrade water quality. Many wastewater treatment facilities must also meet tighter standards because they discharge to impaired waterbodies or waterbodies with limited assimilative capacity. When discharges go to an impaired or limited assimilative capacity waterbody, more contaminants must be removed at the plant which requires additional investments in treatment equipment and operations. Another factor contributing to non-compliance is that wastewater infrastructure is getting old. Many of the municipal wastewater facilities were initially built in the 1970s when water quality problems drove federal legislation to improve water quality. Along with the initial federal legislation came federal funding to build or upgrade wastewater infrastructure and treatment plants. In many cases, the treatment systems built in the 1970s and 1980s are approaching the end of both their physical and technological design lives. Municipal wastewater systems often require subsidies to operate because of the high capital investment, operating costs, and maintenance costs. Typically they operate at a deficit, increasingly so as the facilities become older. In order to keep consumer sewage rates at acceptable levels, many communities subsidize their sewer revenue shortfalls out of other community revenues. The budgetary challenges experienced by many communities have resulted in deferred maintenance and the inability to upgrade technology to meet increasingly tighter discharge limits for municipal wastewater facilities. Municipal leaders are faced with difficult decisions about how to allocate scarce financial resources. As a result, often a decision is made to defer equipment replacement, defer maintenance, defer technology upgrades, and cut operating costs to the bone for their wastewater treatment plants. Those decisions eventually lead to the higher levels of non-compliance being seen here in Alabama and throughout the nation. When non-compliance does occur due to failing infrastructure, there are limited regulatory options to end the non-compliance. Stopping operations of a wastewater treatment plan for permit violations is a serious threat to public health and the environment. |
Revolution Fund loan program for many years.
2. ADEM's Clean Water SRF Program loans funds for
capital outlays to qualifying wastewater systems
at low interest rates. Many small systems and
those in areas of declining population are unable
to meet the standard financial requirements to
borrow money. We are addressing that with:
Stepped up SRF program education and
solicitation to every public wastewater system in
the state.
Tailoring interest rates and the
allocation of principal forgiveness for those
systems most in need due to financial challenges,
being disadvantaged communities, or declining
populations.
Legislative approval is being sought
to allow lengthened loan terms when remaining
asset lives justify longer repayment periods.
Increased coordination has been
initiated with other federal and state funding
sources, for example USDA loans and ADECA grants.
Priority will continue to be given
to those systems with compliance issues related
to sub-par physical facilities.
The Department is seeking ways to
fund the infrequently used Pollution Control
Grant Fund. We are currently working on a test
case with an enforcement settlement negotiation
involving EPA, the Department of Justice, and
ADEM where the federal portion may be directed to
provide grant funds to struggling wastewater
systems in Alabama.
Six years ago the Department began
offering an energy assessment and optimization
program, sometimes referred to as an energy
audit, to help wastewater treatment facilities
reduce operating costs.
Wastewater treatment facilities are
very large users of energy to run pumps,
aerators, sludge handling equipment, and other
large electrical components to support plant
operations. Often they are the largest single
user of a city's electrical energy.
ADEM's energy assessment and plant
optimization program is voluntary and does not
subject the facility receiving the assistance to
1. any increased risk of non-compliance discovery.
2. It is not enforcement driven.
3. The facility is not obligated to
4. implement any of the recommendations made as a
5. result of the audit. For those facilities
6. electing to make plant changes, ADEM provides
7. follow-up support with troubleshooting and energy
8. use tracking.
9. There is no financial cost to the
10. facility for the audit or the follow-up support.
11. The Department’s rationale for
12. offering this service at no cost to the
13. wastewater treatment facilities is to help
14. address the single biggest contributor to
15. non-compliance in this sector, which is the lack
16. of financial resources. The more efficiently
17. wastewater facilities operate, the further they
18. can stretch their limited resources.
19. Additionally, more efficient wastewater
20. operations often lead to reduced discharges of
21. certain pollutants.
22. During the last six years, ADEM has
23. performed more than 60 audits of municipal

1. municipal wastewater treatment system in Alabama
2. is required to have a written sanitary sewer
3. overflow response plan that also includes a plan
4. for local public notification of overflows.
5. The Department implemented a program
6. to install permanent signage showing multiple
7. ways for the public to conveniently obtain
8. current water quality information, including
9. information regarding SSOs. These signs have
10. been placed at public boat ramps and marinas and
11. at other locations, upon request, throughout the
12. state.
13. This permanent signage can, in some
14. circumstances, help utilities reduce the labor
15. intensive, costly, and often untimely and
16. ineffective practice of manually placing
17. temporary signage.
18. The ADEM website posts the current
19. SSO information available from municipal
20. wastewater systems throughout the state as an
21. additional notification opportunity available to
22. the public.
23. The Department continues to go the
1. extra mile to help wastewater systems in addition to providing funding and reducing operating costs. An example is one with which you are all familiar -- Unicown. The Uniontown wastewater system has been in a state of near collapse for a number of years. Although the Department had to turn the matter over to the courts after exhausting all its enforcement options, we have continued to work with USDA and many others to help find a way to address Unicown's wastewater problems. I am pleased to report that an independent Unicown Waterworks and Sewer Board has been established to provide local oversight, funding has been secured, and the initial construction phase of the necessary upgrades is anticipated to begin by year end.

On the legal front, I am pleased to report that on September 12th the U.S. 11th Circuit Court of Appeals ruled without dissent that the EPA acted within its authority in dismissing a petition by Alabama environmental activist groups seeking to require that EPA withdraw the ability of ADEM to administer the Clean Water Act in Alabama. In early 2010, the environmental groups petitioned EPA to withdraw state authority for 26 alleged failures to properly administer the program during the years 2009 and earlier.

Following an in-depth investigation that began in 2010, in 2017 EPA determined that the ADEM program met the requirements of the Clean Water Act and dismissed the petition by the environmental groups. That decision was appealed by the environmental groups. And on September 12th, 2019, the 11th Circuit made its ruling that EPA properly acted within its authority in dismissing each allegation. This closes the chapter on a very long process that had EPA, under two different administrations, affirm that our NPDES program does, in fact, meet all federal requirements.

Also, on October 11th there was a ruling by the Alabama Court of Civil Appeals that overturned a lower court ruling related to the use of daily cover at landfills in Alabama. In 1993, the Commission adopted a rule to allow certain types of daily cover, such as tarps, to conform to the then recently enacted EPA rules. The Alabama Solid Wastes Disposal Act adopted by the legislature in 1981, and subsequent amendments, did not specifically address the use of alternative cover even though it is often more effective and efficient in protecting human health and the environment. The Department will be taking appropriate action to affirm the use of alternative daily cover as EPA rules allow at the Federal level, as we believe the Alabama legislature intended, and to continue the practice that has served Alabama well for more than 25 years.

And that concludes my report. If you have any questions, I'd be pleased to address them.

CHAIRMAN MILLER: Any questions or comments for the Director?

(No response.)

CHAIRMAN MILLER: Thank you.

DIRECTOR LeFLEUR: Thank you.

CHAIRMAN MILLER: Next is our report from the Commission Chair. And I would like to -- we all realize that the coal ash problem is a big deal and will continue to be in the years to come. And at the Commission's request, the Department met with small groups of us to go over the current regulations and the current proposals for dealing with this. And it was very helpful. And I think there is a video of that presentation available on the website perhaps?

MALE AUDIENCE MEMBER: It's on the FTP site, and we will move it over to the --

FEMALE AUDIENCE MEMBER: On the ADEM website --

(Simultaneous speakers.)

CHAIRMAN MILLER: But I think it's very informative, and we appreciate it very much. Because it took several people away from their normal duties to meet with us. I thank the Commissioners, some of whom had to travel quite a distance to get here. But we do realize that it's an important problem and that we're going to -- we need to be fully aware of what the
MR. WALTERS: So I would also like to present to the Commission for adoption the Committee's recommendation, which is that the Personnel Committee Chair, myself, meet with the Director regarding the compilation of the written comments on his performance in the past year and to execute the Verification of Understanding between the Commission and the Director regarding the evaluation.

CHAIRMAN MILLER: Okay. Do I have a motion to adopt the recommendation of the Personnel Committee?

MR. MASINGILL: Move to adopt.

CHAIRMAN MILLER: Is there any further discussion?

CHAIRMAN MILLER: All in favor, please say "aye."

All Commissioners signify with "aye.")

CHAIRMAN MILLER: All opposed, "no."

1. Personnel Committee by the close of business July 31st of this year. And that notice to the public was posted on the ADEM website and also circulated to the advance notice of Commission meetings mailing list.

I'm pleased to announce that we received in excess of 220 comments as a result of that request. And in our meeting this morning -- actually, the Personnel Committee meeting this morning -- we adopted the draft compilation of those comments on the Director's performance evaluation. And I think if anyone wants to get a copy of those to contact the Commission Executive Assistant Debi Thomas to get a copy of those compilation -- the compilation of those comments.

The Committee is recommending that we retain Lance LeFleur as our Director and that is in no change to his current salary. And that completes my report.

CHAIRMAN MILLER: Okay. Are there any questions from other Commissioners to Chairman Walters?
1. the Commission.
2. The first one is Julie Lay.
3. Welcome, Ms. Lay.
4. MS. LAY: Thank you. My name is
5. Julie Lay, and I'm here to provide case in points
6. regarding the impossibility of regulating land
7. applications of beneficial use byproducts, also
8. known as wastewater sludge, to the point that
9. human and environmental health are protected.
10. My first point. In the proposed
11. ADEM regulations, the proposed states: to
12. establish procedures to encourage and regulate
13. the land application of eligible nonhazardous
14. byproduct materials within the state.
15. Nonhazardous.
16. Ladies and gentlemen, as you know,
17. if biological and chemical hazards cannot be
18. identified, one cannot assess the probability of
19. the hazard nor the severity of the hazard and,
20. therefore, calculate the risk.
21. Against industries' best efforts,
22. industries have accidental releases and will
23. continue to have accidental releases. These can

1. go undetected for hours, days, weeks, or months,
2. all the while releasing their wastewater to
3. municipalities or allowing companies to pick up
4. their sludge. Equipments fail. People fail.
5. Until companies' generators are liable for what
6. they put in their wastewater or sludges, any
7. regulations that you propose will be
8. unsuccessful.
9. I suggest a new requirement where
10. companies utilize a site system for
11. their wastewater and sludge systems to identify
12. if it's safe to be released in municipalities or
13. to be land applied.
14. If you are interested in talking
15. about this or find out my opinions about this, I
16. would love to provide those to you.
17. My point number two. Across the
18. country and in our own state, cases of land and
19. water contamination due to land application of
20. wastewater sludges are increasing dramatically.
21. Who should be held responsible? In several cases
22. that I'm aware of the property owner was not
23. aware of the application. The lessor of the land

1. allowed the application after they fell for the
2. sales pitch of food grade fertilizer. We show no
3. violations. Well, because there's none to be had
4. as far as poultry wastewater process sludge. And
5. the 503s are extremely lax for the biosolid
6. application. That's why there's no violations.
7. Oh, and also they show results from
8. local universities that show the fertilizing
9. capabilities.
10. Lease agreements typically give the
11. lessor fertilizing application rights. These
12. products are considered fertilizer by our state.
13. Should the state be held liable for subsequent
14. land and water contamination? Should the
15. applicator? Should the generator? Certainly not
16. the farmer, I would hope. Should the landowner?
17. The liability for contamination is endless.
18. Point three. A company that oozed
19. into my community handles poultry wastewater and
20. sludge and Class B biosolids. How are you
21. ensuring in fact that they are applying poultry
22. wastewater sludge versus biosolids? This is
23. important as to which is being applied as grazing

1. crop and human exposure requirements vary
2. depending on sludge type.
3. Genetic testing on the sludge is the
4. only way I can know if. These companies have
5. holding ponds. Are they mixing products? How do
6. you prove that they are not?
7. My point number four. How are you
8. ensuring that these companies/landowners
9. are adhering to the crops and cattle grazing
10. requirements?
11. An example. The company
12. mentions/states on a nutrient management plan
13. that no crops for human consumption, not
14. processed to eliminate pathogens, should not be
15. grown on 18 months on the land after application.
16. In one of the pictures I was
17. provided by ADEM that was taken 6/25 of 2019 in a
18. field, the description states that wheat is going
19. to be planted in a field in the fall. How are
20. you ensuring this is not going to human
21. consumption? Did you contact the Department of
22. Ag or the Department of Human Health to follow
23. the wheat?
I'm sure you have also seen the multitude of flour recall due to E. coli. I wonder why? I confirmed with an associate that from their knowledge flour processing does not have a kill step for biological hazards. How are you going to trace that wheat to the elevator, from the elevator to the processor, and from the processor to the consumer, as our elevators are not required under federal law to do traceability exercises? Do you have resources to do this work? Does the state, Alabama, we should expect better. We have to do better, and we can do better. The companies that promote this state that this is full-circle recycling. And I could not agree more. They participate in a full recycling of contaminants right back to our dinner plates and our glasses of water that you all are drinking now.

Companies and municipalities need to invest their capital in digesters or incinerators or other innovative options for the sludge. Commissioners, in my opinion, you are currently reviewing the regulations that are historic. Your names will forever be attached to these regulations. With all due respect, are you going to ignore the massive amount of science that negates the fertilizing capabilities of beneficial use byproducts? Even with the passage of these regulations, these companies will find the loopholes and continue to do business in Alabama. The owners of the company that I mentioned before have master's degrees in business, not natural resources. I have observed that they're more concerned with making money than to provide soil management to our farmers. People like this will continue to take advantage of the potential loopholes in our laws. What is your stance? Will you make a stance for the people in rural communities such as Asbury, Nixon Chapel, Mt. Hebron, Flat Rock, rural communities, to name a few? Will you make a stand like Mr. Tommy Hanes, Alabama House of Representatives, from Jackson County who -- what he is doing for his county is actively working to allow a vote on beneficial use byproducts in Jackson County per the request of their citizens.

Will you make a stand like Mr. Billy Pittard, who is the county commissioner for Oglethorpe County in Georgia who run a cease-and-desist against the company spreading beneficial use byproducts in his county per the request of his citizens. Mr. Pittard is a grower and elected official. These men honor their role to protect their citizens regardless of backlash they receive.

Will you stand? Are you the kind of people Mr. Hanes and Mr. Pittard are? Are you willing to say cease and desist in our state? People may be thinking that I'm naive. But I think -- I have faith that together we can turn this around. After all, we're called to be our brother's keeper.

Some farmers that are a proponent of using the sludge are not aware of the risks or ignore the risks. As a common statement from the users of the sludge state, it's perfectly legal. And if it wasn't good for the land, the government wouldn't allow it.

CHAIRMAN MILLER: Ms. Lay, you're well over your time limit.

MS. LAY: Yes, sir. I drove three hours here and took a vacation day to be here.

CHAIRMAN MILLER: Well, you should have practiced maybe a little bit more.

MS. LAY: I did.

CHAIRMAN MILLER: Take another 30 seconds and --

MS. LAY: They're relying on you to protect them. I encourage you to please provide swiftly and thoroughly and please do not allow farmers in our farmland to be excluded anymore. I would like to give each of you a reference sheet that contains a multitude of scientific studies and cases of farms and communities that's been decimated by beneficial use byproducts. Thank you for your time.

CHAIRMAN MILLER: Thank you very much.

Mr. Lay, do you have anything to add.
1.  to that or -- try to remember you have three
2.  minutes.
3.  MR. LAY: I will.
4.  CHAIRMAN MILLER: Not six or
5.  seven.
6.  MR. LAY: Mine is not as
7.  technical as hers. I'm Keith Lay, her husband.
8.  I'm from Guntersville. I'm going along the same
9.  things though. It says -- I picked up brochures
10. from your very lobby and it talked about the evils of
11. water pollution and sediment run-off. The first
12. brochure states that sediments carry pathogens,
13. nutrients, and toxic materials such as heavy
14. metals and chemicals into our waterways. These
15. pollutants affect drinking water and surface
16. water quality, contribute to increased water
17. treatment cost, cause fish consumption advisories,
18. and expand oxygen-depleted dead zones into the
19. Gulf of Mexico, which leads to the suspended sediment
20. reduces visibility and damages fish gills
21. affecting the ability for fish to feed and
22. breathe. The next brochure is about picking

1.  up after your dog does his business. Our tax
2.  dollars paid for a brochure about dog feces. It
3.  reads that soil samples -- sorry, that pet waste
4.  is a health risk to animals and people. Pet
5.  waste is full of bacteria that can cause
6.  illnesses.
7.  The soil samples that came back on
8.  the applied land from near our plant
9.  came back at 31,000 MPNs for fecal coliform. A
10. typical cow pasture only has around 300. It's
11. also tested positive for heavy metals and a
12. compound that is known as a GenX PFAS.
13. As an outdoorsman, this is deeply
14. unsettling to me. Please truly consider
15. everything while reviewing the regulations on the
16. beneficial byproducts. The land that this
17. applied on is 100 yards from Big Spring Creek,
18. which directly feeds Lake Guntersville watershed.
19. And what's even worse is the close proximity to
20. the Douglas water board's aquifer, where Douglas
21. gets its water -- that thousands of people get
22. their drinking water from. And they actually
23. have a test facility directly across from our

1.  house. All this -- the water run-off was applied
2. within 50 foot of a creek -- a wet weather stream
3. that runs directly into the creek and aquifer.
4. That's all.
5.  CHAIRMAN MILLER: Thank you.
6.  Thank you both for coming so far to talk to the
7. Commission. We appreciate it.
8.  Mayor McCarty.
9.  MAYOR McCARTY: Good morning,
10. Mr. Chairman. Good morning, members of the
11. Commission. Mr. Chairman, I forget, is the time
12. limit three minutes or 30 minutes?
13.  CHAIRMAN MILLER: Three.
14.  MAYOR McCARTY: Just making
15. sure. Okay. Let me cut to the chase then.
16. Mr. LeFleur talked about credible relationships
17. with external stakeholders. Another way to
18. phrase that would be, Does the public at large
19. believe that you're doing what's best for the
20. health, safety, and welfare of all Alabamians?
21. Are you making your decisions transparently? Are
22. you making them publicly? Are you taking into
23. account all aspects of the information?

1.  I've bombarded you with information,
2. and I know other groups have, other people have.
3. I'm sure the power company has. How many of you
4. even made up your mind as to whether or not
5. you're going to allow Alabama Power Company to
6. cap in place the 24 million tons of coal ash in
7. Wilsonville? How many of you made up your mind
8. yes or no on that question? When are you going
9. to make up your mind? When you do make up your
10. mind, are you going to have a public vote on it
11. where each one of you says yes or no, they can or
12. they can't? Will we know how that decision is
13. made? You owe it to us that we do know how that
14. decision is made.
15. At some point -- I'm glad you
16. brought up coal ash earlier, Mr. Chairman.
17. You all have been covered up with information.
18. You all should have -- and you have the authority
19. to say yes or no. When is that going to happen?
20. Last meeting we said the public hearings were
21. coming, decision was coming. What's happened on
22. that? How would I know? Who would I ask? We
23. need to be transparent, and we need to be open
and we need to get these decisions made. And I
would appreciate a public vote from each one of
you yes or no, up or down, on whether or not this
ccoal ash can remain in these communities. Thank
you.

CHAIRMAN MILLER: Thank you. I
think that's all of our presentations for today.
I will entertain a motion that we adjourn.

VICE CHAIR BROWN: So moved.

MR. WALTERS: Second.
(The meeting is adjourned at
12:00 p.m.)

******************

STATE OF ALABAMA)
COUNTY OF ELMORE)

I hereby certify that the above
proceedings were taken down by me and transcribed
by me using computer-aided transcription and that
the above is a true and accurate transcript of
said proceedings taken down by me and transcribed
by me.

I further certify that I am neither
of kin nor of counsel to any of the parties nor
in anywise financially interested in the outcome
of this case.

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 found below.

VICTORIA CASTILLO, ACCR #17, 9/30/20
FREELANCE COURT REPORTER
Alabama Department of Environmental Management
Commission Meeting
October 18, 2019

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Part B
Attachment Index

Attachment 1 Agenda

Attachment 2 Order to adopt motion to accept Sam Miller as Chair and Lanier Brown as Vice Chair
(Agenda Item 2)

Attachment 3 Director’s Slides
(Agenda Item 3)

Attachment 4 Order to adopt recommendation of the Personnel Committee
(Agenda Item 5)
AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: October 18, 2019
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

ITEM

1. Consideration of minutes of meeting held on August 16, 2019**
2. Elections
3. Report from the ADEM Director
4. Report from the Commission Chair
5. Report and recommendation from the Personnel Committee on the ADEM Director Job Performance Evaluation
6. Alabama Treatment and Energy Company, Inc. v. ADEM
   EMC Docket No. 18-06
7. Other business
8. Future business session

PUBLIC COMMENT PERIOD

Brief statements by members of the public registered to speak

* 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 16, 2019

2. ELECTIONS

   The Commission will elect a Commission Chair and Vice Chair.

3. REPORT FROM THE ADEM DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

5. REPORT AND RECOMMENDATION FROM THE PERSONNEL COMMITTEE ON THE ADEM DIRECTOR JOB PERFORMANCE EVALUATION

   The Personnel Committee will provide its report and present a recommendation on the ADEM Director Job Performance Evaluation to the Commission for consideration.

6. ALABAMA TREATMENT AND ENERGY COMPANY, INC. V. ADEM, EMC DOCKET NO. 18-06

   The Commission will acknowledge for the record the Petitioner’s withdrawal of the request for hearing in the above matter. The subject of the request for hearing is ADEM Administrative Order No. 18-067-HW issued on May 16, 2018, to Invictus Energy, Inc. and Alabama Treatment and Energy Company, Inc., Fort Mitchell, Russell County, Alabama, EPA Identification Number ALR000005322.

7. OTHER BUSINESS

8. 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 Sam Miller as Chair and
Lanier Brown 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.
ISSUED this 18th day of October 2019.

APPROVED:

[Signatures of Commissioners]

DISAPPROVED:

[Signatures of Commissioners]

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 18th day of October 2019.

[Signature of Chair]

Samuel L. Miller, Chair
Environmental Management Commission
Certified this 18th day of October 2019
Attachment 3
Shared AEMC / ADEM Plan Goals

- Effective and Responsive Commission
- High Performing Work Environment
- Credible Relationships with External Stakeholders
- Efficient and Effective Departmental Operations

ADEM Operating Plan Goals

- Effective and Responsive Commission
  - Information on proposed rulemaking
  - Information on current environmental policy issues
  - Regular updates on Operating Plan progress
  - Provide performance metrics
ADEM Operating Plan Goals

- High Performing Work Environment
  - Financial and physical resources
  - Human resources
  - Data driven performance measurement
  - Promote innovation

ADEM Operating Plan Goals

- Credible Relationships with External Stakeholders
  - Meet with private sector, NGOs, Fed & State
  - Community engagement
  - Website information
  - Waste water infrastructure and safe drinking water outreach
ADEM Operating Plan Goals

- Efficient and Effective Departmental Operations
  - Effective internal communication
  - Meet or exceed EPA work plan
  - Incorporate electronic applications
  - Operate with tight budget
Factors contributing to Non-Compliance by Municipal Wastewater Systems

- Costly to build, operate, and maintain
- Costly system upgrade requirements
- Systems are getting old
- Inability to self-fund investments and operations
- Limited regulatory options to stop non-compliance
- Large investments and cost reductions needed

ADEM actions to help address problems

- Enhancements to SRF loan program
- Funding Pollution Control Grant Fund
- Energy efficiency assistance
- Program to provide cost effective local SSO notification
- Extra effort to provide other assistance
Hanceville WWTP Solar Array
Attachment 4
BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Adopt the recommendation of the Personnel Committee

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 pursuant to the adoption of the recommendation of the Personnel Committee, the Personnel Committee Chair is authorized to meet with Director LeFleur regarding the Summary of Written Comments for ADEM Director Job Performance Evaluation and to execute the verification of understanding between the Commission and the Director regarding the evaluation; and

3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.
ISSUED this 18th day of October 2019

APPROVED:

[Signatures]

Commissioner

Commissioner

Commissioner

Commissioner

DISAPPROVED:

[Signatures]

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 18th day of October 2019.

[Signature]

Samuel L. Miller, Chair
Environmental Management Commission
Certified this 18th day of October 2019