Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 19, 2012
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 19, 2012.

H. Lamer Brown, Jr.
Chair
Alabama Environmental Management Commission

Certified this 14th day of December 2012.
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Environmental Management Commission Meeting
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1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 19, 2012

Convened: 11:01 a.m.
Adjourned: 11:48 a.m.

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Part A
ALABAMA ENVIRONMENTAL MANAGEMENT
COMMISSION MEETING

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
Alabama Room
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 19, 2012
11:01 a.m.

Taken by: Victoria M. Castillo, CCR#17

APPEARANCES

COMMISSION MEMBERS PRESENT:
H. Lanier Brown, II, Esquire, Chair
W. Scott Phillips, Vice Chair
John H. Laster, D.V.M.
Terry D. Richardson, Ph.D.
Samuel L. Miller, M.D.
Mary J. Merritt

COMMISSION MEMBER NOT PRESENT:
James E. Laier, Ph.D., P.E.

ALSO PRESENT:
Robert Tambling, EMC Legal Counsel
Debi Thomas, EMC Executive Assistant
Lance R. LeFleur, ADEM Director
Russell A. Kelly, Chief, Permits and Services Division
Lynn Sisk, Chief, Water Quality Branch, Water Division

(The meeting begins at 11:01 a.m.)

DR. LESTER: At this time we will convene our meeting because we do have a quorum. Mr. Brown -- we don't know where he -- he's somewhere between here and Birmingham. And we do have a quorum on this. Each commissioner has received the minutes of the August 17th meeting.

I entertain a motion regarding the minutes.

DR. MILLER: I move we accept the minutes as presented.

DR. RICHARDSON: Second the motion.

DR. LESTER: Motion and second. All in favor say aye.

(All commissioners state aye)

DR. LESTER: All opposed?

(No response)

DR. LESTER: Our first item of business is the election of the new chair and new vice chair.

I've enjoyed these two years, and nobody's served more than two years at a time.

But -- so at this time I will open up for nominations to the chair.

MR. PHILLIPS: I move we elect Lanier Brown as chair.

MS. MERRITT: I second.

DR. RICHARDSON: I second.

DR. LESTER: All in favor?

(All commissioners state aye)

DR. LESTER: All opposed?

(No response)

DR. LESTER: Next item is vice chair.

DR. RICHARDSON: I move to elect Mr. Scott Phillips.

MS. MERRITT: I second.

DR. LESTER: Motion and second. All in favor?

(All commissioners state aye)

DR. LESTER: All opposed?

(No response)
DR. LESTER: Now since the chairman's not here, the vice chairman will take over.

VICE CHAIRMAN PHILLIPS: That wasn't supposed to happen.

Thank you, Dr. Lester. First I'd like to thank you for everything you've done and all the help that you've provided to this Commission and to the Department in your loyal service for all these many years, so thank you for that.

Agenda item three, report from the director.

I just got a report through the doorway here that Lanier Brown is on his way, and he will be here in about 20 minutes.

DR. LESTER: We will be over by then.

VICE CHAIRMAN PHILLIPS: The traffic between here and Birmingham is not always predictable. I well understand any delays there.

MR. LeFLEUR: Good morning.
Welcome to all of you present for the first meeting of six scheduled meetings of the Alabama Department of Environmental Management -- excuse me -- the Alabama Environmental Management Commission for fiscal year 2013.

Dr. Lester's and Dr. Richardson's terms expired on September 30th, 2012. Governor Robert Bentley has reappointed Dr. Richardson, and I look forward to his continuing service.

Dr. Lester has served three terms and is not eligible to be named for an additional term. The governor has not yet appointed anyone to fill the chemist/veterinarian position. And although I know we cannot keep Dr. Lester for the long term, I am pleased he is willing to serve until his replacement is named. Thank you.

It's very appropriate that Dr. Lester should be with us today as a commissioner because today we are celebrating 30 years since the founding of the Alabama Department of Environmental Management. Dr. Lester has been a part of the leadership that has guided the Department for 18 years and counting of those 30 years.

Dr. Lester, today is the day I will try to summarize your extraordinary contributions to this Commission. There is no way I can do your legacy justice; however, I hope those present will be able to glean from my remarks at the end of this report some idea of the true scope of your impact, not only on this Department but the state as a whole.

For the moment, suffice it for me to offer my heartfelt personal thanks for your leadership and friendship as I first address the budget and offer updates on some ongoing initiatives of note.

We are now entering a new fiscal year, so I will give a quick recap of the FY 2012 budget and then briefly address fiscal year 2013 and 2014. The bulk of this report will focus on updating you on some of the Department's ongoing initiatives, and then offering the first of what will be several reports highlighting departmental achievements during the last 30 years.

As a result of implementing previously announced cost cutting measures, the Department was able to close out fiscal year 2012 within our downgraded budget. This was possible in part by reducing head count through attrition.

We start off FY 2013 with 595 employees, down from 610 in April of this year, and a total allotted staff of 648.

The current head count is at or very near the minimum baseline necessary to retain federally delegated programs; therefore, we do not anticipate additional reductions in staffing.

New FY '13 comparison budget.
1 of water policy. As you are aware, at the
2 request of Governor Bentley, the Alabama
3 Water Agency's Working Group was formed, and
4 it is made up of the Office of Water
5 Resources, a division of ADECA; the Alabama
6 Department of Conservation and Natural
7 Resources; Geological Survey of Alabama;
8 Alabama Department of Agriculture and
9 Industry; and ADEM.
10 As reported in previous
11 Commission meetings, the Working Group
12 developed a report identifying Alabama
13 water use policy issues and made it
14 available to the public on the OWR and ADEM
15 Web sites. The document has also been
16 distributed to 231 entities identified as
17 possible interested parties.
18 The Working Group is now in the
19 midst of reaching out to those interested
20 parties who would like to have input in
21 shaping water policy in Alabama. The water
22 issues document is intended to generate
23 discussion, and the comments received will

1 year.
2 We are continuing to move
3 forward in reaching out to impacted parties
4 regarding the anticipated 50 percent
5 increase in permit fees that will allow the
6 Department to obtain the minimum funding
7 necessary to maintain state control over
8 the water program for FY 2014.
9 We have met with many impacted
10 organizations to present the reasons for
11 the increase and the consequences of not
12 implementing the increase. Not
13 surprisingly, none are happy about the
14 situation. But to date, we have had no
15 indication that the regulated community
16 will object to implementation.
17 As previously noted, I
18 anticipate presenting a request to the
19 Commission for rulemaking not later than
20 June of 2013 to set the new permit fee
21 schedule.
22 I will now update you on some of
23 our ongoing initiatives. First, the issue

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1. list.
2. The deadline for interested
3. parties to submit their comments is
4. November 1 of this year. Also, all
5. interested parties should be aware that
6. there is a Permanent Joint Legislative
7. Committee on Water Policy which has been
8. holding public meetings on water policy.
9. Attending those meetings is another way to
10. get additional information about water
11. policy in Alabama.
12. Another substantial ongoing
13. initiative is the comprehensive assessment
14. of solid waste management procedures in
15. Alabama. As previously reported, ADEM
16. selected Auburn University to oversee the
17. study in order to ensure an independent,
18. unbiased perspective on the current state
19. of Alabama’s solid waste program.
20. Auburn University has been
21. conducting a series of meetings around the
22. state to gather input from the general
23. public as well as focused interest groups.

To date, 11 of the planned 13
public meetings have been completed. All
the meetings are scheduled to be completed
before year end. The public is encouraged
to attend one of these meetings and submit
written comments.

Alabama -- or, excuse me --
Auburn has established a project Web site,
www.eng.auburn.edu/asws/, and a Facebook
page to provide pertinent information to
interested parties and provide additional
opportunities for input and discussion.

All comments received will be
compiled by Auburn into a report that will
be presented to ADEM early next year. This
final report will also include a list of
potential solid waste program enhancements
identified during the study project.

Following review of that -- of
the report and in consultation with the
Department of Public Health, the Department
will make its final recommendations to the
governor and the legislature following the

2013 regular session.
One of the areas covered in the
study involves recycling. As called for in
the 2008 Solid Waste and Recyclable
Materials Act, every three years at this
time, following a review of the most
recent -- of the most current recycling
data available statewide, the Department
announces a statewide recycling goal.

The Department proposes to
retain the 25 percent goal currently in
place. This is an -- it is anticipated
that action recommendations resulting from
the study currently underway will assist in
the attainment of our statewide goal.

Next I will provide you an
update on two ongoing enforcement actions
by the Department that are receiving
considerable media attention. The first
involves a significant Mercaptan release.
The Department has been
overseeing the assessment and remediation
of that release in the Eight Mile area near

Mobile. Mercaptan is the odorant added to
natural gas to aid in leak detection.
The Department has entered into
an investigation agreement with Mobile Gas
Service Corporation. On September 28th of
this year, pursuant to the terms of that
agreement, the Department approved a plan
for the next phase of investigation to
characterize the lateral and vertical
extent of the soil and groundwater
contamination and required measures to
mitigate the odor to be implemented within
14 days. Odor mitigation efforts are
underway.

In the meantime, the Alabama
Department of Public Health, ATSDR, and the
CDC are working together to conduct a
Health Study Consultation for the community
so they will be fully informed on the
nature and extent of any possible personal
health impacts.
The second enforcement action
receiving considerable public attention
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1 involves the bankrupt industrial wastewater
treatment facility in Sylacauga, known as
REEF, R-E-E-F. For year -- several years
ADEM had pursued all administrative
enforcement remedies available to the
Department. Final court action is still
pending. Bankruptcy of the operating
company and unavailability of state funds
have prevented site remediation.
Efforts to involve local elected
officials, utility officials, industrial
development groups, and other local
entities in seeking a local solution were
unsuccessful. With all other options
exhausted, the Department, on October 1st,
2012, requested federal assistance in the
form of physical and financial resources,
as well as federal enforcement authority,
available solely to the Environmental
Protection Agency.
EPA responded robustly. And
working in partnership with ADEM, the
hazardous gas buildup has now been

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1 eliminated, the contents of the basins
2 stabilized, and a remediation plan is in
development.
A Unified Command Center has
been established at the site with
representatives of ADEM, EPA, and the
Talladega County Emergency Management
Agency.
Since those delivering waste to
the facility have been unwilling to
participate voluntarily, site cleanup
activities will be undertaken utilizing EPA
resources, and responsible parties will be
pursued for contribution and reimbursement
of up to three times the cost of the
cleanup.
Switching gears, I will now
present the first installment of a look
back at the 30 years since ADEM was
created. At this and future Commission
meetings during the next year, I will
highlight a few of the significant
environmental accomplishments the

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1 Department, the Commission, and the people
2 of Alabama can rightfully celebrate. A
3 more comprehensive report showing 30 years
4 of progress is being developed and will be
5 available in the coming months.
6 Thirty years ago the Alabama
7 Department of Environmental Management was
8 formed by an act of the legislature when
9 seven agencies, including the Air Pollution
10 Control Commission, the Water Improvement
11 Commission, and the Solid Waste Division of
12 the Alabama Department of Public Health
13 were combined into a single organization.
14 ADEM was organized in five
15 divisions: Air, Water, Land, Field
16 Operations -- which is our boots on the
17 ground -- and Permits and Services, which
18 includes IT, finance, and other services.
19 Today we will focus on a few of
20 the accomplishments in the Air and Water
21 arenas.
22 Please direct your attention to
23 the monitor. These slides that I am about

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1 to present will highlight some of the
2 significant milestones achieved along the
3 way in the past 30 years.
4 The citizens of Alabama have
5 been the beneficiaries of these
6 achievements. In some cases Alabama's
7 success and innovation has prompted other
8 states, and even EPA, to upgrade their
9 activities or implement comparable
10 programs.
11 Beginning with Air. In December
12 2011 ADEM's air program was ranked by the
13 Office of Inspector General, the federal
14 watchdog agency, as the number one air
15 program in the nation.
16 The map before you identifies
17 those states that were in the top quartile
18 in the nation, and our air program was
19 obviously in the top quartile, along with
20 those of much wealthier states.
21 If you can see Alabama on
22 this -- this map, it's the light red
23 designation for the top quartile.
1 In 1982 there were 20 areas of
2 the state unable to meet the air quality
3 standards in place at that time. Since
4 1982, air quality standards have tightened
5 considerably, and there are only two areas
6 yet to achieve to new lower levels that
7 have been put in place. People in
8 Birmingham and other areas can see and, by
9 breathing, tell the difference.
10 In 1982 there were -- excuse
11 me -- in 1982 some 500 stack tests were
12 conducted, reviewed, or observed each year
13 to determine compliance with permit
14 conditions.
15 Stack tests are a measure of
16 enforcement activity. Today that number
17 has grown to 1,000 per year, and stacks
18 with the largest emissions are tested each
19 year.
20 On the regulatory side, several
21 important air initiatives have been
22 implemented in the last 30 years. Two of
23 the most important are with the Visible

1 Emissions Training Program and the Regional
2 Haze Visibility Program.
3 The Visible Emissions Training,
4 affectionately called Smoke School, shown
5 in the photo certifies 400 operators and
6 inspectors each year. The Regional Haze
7 Visibility Program is a regional
8 initiative.
9 Alabama has a goal of reaching
10 visibility standards by 2018 and has met
11 them an impressive six years ahead of the
12 goal.
13 The Air Division has also
14 implemented several initiatives in the last
15 30 years that represent voluntary rather
16 than mandatory activities. Some examples
17 include the No Idling Campaign to encourage
18 shutting off internal combustion engines
19 rather than engaging in prolonged idling in
20 circumstances like school buses and parents
21 waiting for students at schools -- Air
22 Quality Forecasts that benefit those with
23 breathing disorders and converting old

1 diesel engines to modern low emissions
2 diesel engines.
3 Moving now to Water. The map
4 before you compares the water programs in
5 all the states like the earlier slide
6 compared air programs. It shows the Office
7 of Inspector General ranking of all
8 states.
9 Although the water program was
10 not number one in the nation, like the --
11 like the air program, you can see the ADEM
12 Water Program is included in those states
13 that were in the top quartile in the
14 nation.
15 Once again, Alabama shares this
16 distinction which -- with much wealthier
17 states. At ADEM's inception 30 years ago,
18 there were no waters of the state that were
19 classified as either Outstanding Alabama
20 Waters or Outstanding National Resource
21 Waters.
22 These classifications both
23 recognize the existing high quality of the
1 of this award being awarded in the state, 
2 and I congratulate you. 
3 (Audience applause) 
4 MR. LeFLEUR: Good job. The 
5 second recognition is for the EPA Region 4 
6 Excellence in Public Participation Award 
7 awarded to the Water Quality Branch in the 
8 Water Division. I won't read the two pages 
9 describing the award and setting forth the 
10 excellent work that earned recognition; 
11 however, it involves both leading edge 
12 science as well as involvement of those we 
13 all serve, the citizens of Alabama. 
14 The award is rarely given. EPA 
15 representatives were unable or unsure of 
16 the last time it was awarded. And this is 
17 the first time Alabama has been recognized 
18 in this matter -- this manner. 
19 Lynn Sisk is our Water Quality 
20 Branch Chief, and I congratulate him. 
21 Lynn, are you here? There you are. Come 
22 on up here. I congratulate him on behalf 
23 and his staff for the fine work that

1 community and at the same time sets higher 
2 environmental standards. 
3 Closing out the discussion of 
4 the Water Division, I am pleased to make 
5 you aware of two important recognitions 
6 recently earned by the Water Division. 
7 First, I'd like to recognize 
8 Scott Ramsey, Chief of the Municipal 
9 Section in our Water Division. The 
10 American Academy -- if you would, come on 
11 up, Scott. The American Academy of 
12 Certified Public Managers awarded him 
13 Alabama's first George C. Askeaw Award for 
14 his exemplary work on a project, evaluating 
15 the implementation of a mandatory 
16 electronic discharge monitoring reporting 
17 system. The award was presented -- was it 
18 yesterday or day before yesterday? 
19 MR. RAMSEY: Wednesday. 
20 MR. LeFLEUR: -- at the 
21 state capital. Unlike the Nobel Prize, 
22 there's no money that goes with it, but a 
23 fine medal. And this is the first example

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1. Pesticide applicators are now controlled. Much has improved over the last 30 years in the air and water arenas. High performance continues. This 30th anniversary year provides an opportunity to highlight the progress. Let me now close my remarks with an attempt to recognize the tremendous contributions made by Dr. Lester to the Department, the Commission, and the people of Alabama.

2. This may embarrass you a little bit, Dr. Lester, but please bear with me. John Howard Lester, D.V.M., began his service in the chemist/veterinarian position on the Alabama Environmental Management Commission with his appointment in 1994 by Governor Jim Folsom. Both succeeding governors reappointed Dr. Lester for additional six-year terms in 2001 and 2006, and he is the longest-serving member in the history of the Commission.

In addition to his service on the Commission, Dr. Lester practiced veterinary medicine for 47 years at the Lester & Donaldson Veterinary Hospital in Enterprise, Alabama. He also served as President of the Enterprise City Council for 20 years. During his span of 18 years on the Commission, Dr. Lester has been a leader on the Commission, having served twice as chair and once as vice-chair. His recurring role of making sure the trains run on time has contributed in no small way to the Department’s many successes during this time.

Dr. Lester played an integral part in helping the Commission carry out its duties of managing the Director of the Alabama Department of Environmental Management -- me -- promulgating rules, and hearing appeals. During his 18-year tenure, Dr. Lester has been directly involved in the hiring and managing of five ADEM directors. I can attest that he has been supportive of the directors of ADEM, its managers, and its staff, often expressing his gratitude for their efforts.

Dr. Lester has been instrumental in the adoption of rules and regulations protective of the health and environment of Alabama. Among these are: Tightening of cancer risk levels in the water quality regulations; revisions and additions to water quality stream classifications, including the establishment of the Treasured Lake -- Treasured Alabama Lake special designation; development of rules and regulations as well as funding for scrap tire cleanup and recycling; establishing trust fund programs pertaining to dry cleaning operations, underground storage tanks, solid waste recycling, and drinking water; revisions to air rules and regulations, including those regulating acid rain, ozone, fine particles, and other air pollutants; revision and addition of rules and regulations regarding water discharge permits, among them enhanced oversight of concentrated animal feeding operations; and revisions to regulations to provide adequate funding of ADEM operations.

Through Commission resolutions, Dr. Lester has sponsored expressions of gratitude to legislators for enacting the Scrap Tire Management Program and abating taxes to ensure that brownfield -- to encourage brownfield redevelopment.

He has also encouraged the legislature to reauthorize funding for the Forever Wild program. On his watch, all areas of the state which were designated as nonattainment for ozone and fine particulates reduced concentrations to attainment levels.

As part of his service on the Commission, Dr. Lester, along with his fellow commissioners, acted upon appeals of ADEM’s permit issuance, administrative
1 orders, and regulations.
2 Among the most courageous
3 actions was the one to uphold the issuance
4 of air and hazardous waste permits for the
5 incineration of chemical munitions at the
6 Anniston Army Depot, which, though
7 stridently opposed by activist groups,
8 resulted in the safe and thorough
9 destruction of more than 600,000 deadly
10 chemical weapons, and thereby dramatically
11 improving and making safer the environment
12 in the state of Alabama.
13 During his term of service, ADEM
14 was able to move from spread-out inadequate
15 offices and laboratory facilities at
16 multiple sites in Montgomery to modern,
17 efficient facilities at a single site,
18 which we enjoy here today.
19 Throughout his 18 years of
20 service, Dr. Lester has consistently
21 demonstrated his dedication to the
22 Commission and ADEM and his concern for the
23 environments and the -- the environment and

1 the citizens of Alabama.
2 These thoughts have been set out
3 in the form of a commendation from the
4 governor of Alabama, and I'm pleased to
5 present you with that document on behalf of
6 a grateful state.
7 I won't ask you to -- to walk
8 around here, but if you would like to,
9 certainly --
10 The commendation is by the
11 governor of the state of Alabama. It's a
12 very long commendation for a very long and
13 fruitful career. And I congratulate you.
14 (Audience applause)
15 DR. LESTER: Looking around
16 to see who he was talking about -- that no
17 one can do this by themselves. I've got a
18 good Commission and we got a good
19 director. The day we hired Lance, he left
20 Montgomery that very day and went to Mobile
21 for the BP cleanup. That was his first day
22 on the job. Got that pretty well coming
23 under control, then we had the tornado in

1 Tuscaloosa, which he had to split our folks
2 up and send them there. And then we -- at
3 the same time we had a big oil spill up in
4 north Alabama. So he got his feet on the
5 ground in a hurry. So without him as our
6 leadership now, his staff -- office
7 staff -- see if any of them are in here --
8 but anyway, his office staff
9 departmentheads -- he has my philosophy on
10 it. Hire good departmentheads and let them
11 do the job. No micromanagement.
12 Plus, in turn, right now we're
13 doing the reduction of employees. We're
14 down to I think 591, or something like
15 that, and every one of them served this
16 Commission, served Alabama every day. No
17 exceptions. Robert --
18 MR. LeFLEUR: Dr. Lester, I
19 hate to interrupt you, but this is an honor
20 for you, not for me.
21 DR. LESTER: Well, it's all
22 of you-all. And without Robert to keep us
23 out of trouble on the legal side, I don't

1 know where we'd be. Because if we have a
2 problem, we get Robert and he tell us which
3 way we can go and what we can't do.
4 And the number one helper is
5 Debi Thomas. Debi has been here since the
6 beginning of the whole thing, and she has
7 helped me for the 18 years --
8 (Dr. Brown enters the room.)
9 DR. LESTER: -- thousands of
10 e-mails, phone calls, anything, and I
11 have -- like, Lance, we have a problem.
12 I'd pick up the phone and call either one
13 of them, and they'd just like that we get
14 help and results. So without all of
15 you-all, I couldn't have done anything.
16 MR. LeFLEUR:
17 Congratulations.
18 (Audience applause)
19 DR. LESTER: I'm glad we've
20 got Chairman Brown, which we elected to
21 do --
22 CHAIRMAN BROWN: Doesn't pay
23 to be late. I apologize, everyone. I was
1 working in Mississippi the last couple of
days, and I've been driving since the crack
of dawn.

DR. LESTER: And a lot of
highway construction.

CHAIRMAN BROWN: And a lot
of construction.

MR. LeFLEUR: You've been
elected chairman in your absence. I'm
confident I speak for his fellow
commissioners and the employees of the
Department in saying it's been a privilege
to know and work with Dr. Lester.

Once again, let me close my
remarks with thanks to you for your service
to the state and for allowing me to serve
the State in this capacity. And I will be
pleased to answer any questions that you
may have.

VICE CHAIRMAN PHILLIPS:
Thank you, Director. Do any of the
commissioners have questions for Lance?
(No response)

VICE CHAIRMAN PHILLIPS:
Thank you. And, Dr. Lester, as if that
weren't enough, in walks the new chairman
and it's my pleasure to turn over agenda
item number four, which is a report from
the commission chair, so that he can tell
you that we have something for you also.

CHAIRMAN BROWN: We have --
we have a resolution which reads, Whereas,
Mr. Howard Lester, D.V.M., completed 18
years of service as a member of the Alabama
Environmental Management Commission in the
chemist/veterinarian position as of October
1st, 2012 and will continue to serve until
the new member is appointed to this
position; and, whereas, his leadership
abilities were recognized by his election
as vice-chair of the Commission in October
2009, the position he held until October
2010, and as chair of the Commission for
two terms, spanning from October 2010 to
October 2012; and, whereas, his personable
and caring manner and steadfast dedication
to his service on the Commission will be
greatly missed by his fellow commissioners,
the Commission's legal counsel and
assistant, leadership and staff of the
Alabama Department of Environmental
Management, and many within the
governmental, regulated, and environmental
communities, now therefore be it resolved
that the Environmental Management
Commission expresses gratitude to John
Howard Lester, D.V.M., for his significant
contribution to a better environment and an
improved quality of life for the citizens
of Alabama. Done this, the 19th day of
October 2012.

VICE CHAIRMAN PHILLIPS: It
is with great pleasure that I make a motion
that we accept this.

MS. MERRITT: And I second.
CHAIRMAN BROWN: All in
favor?
(All commissioners state aye)
CHAIRMAN BROWN: All

opposed?
(No response)
CHAIRMAN BROWN: Motion
passes. Resolution passes.
(Audience applause)
CHAIRMAN BROWN: I guess you
can tell that as a lawyer going to court
all the time, I can't talk without
standing.
Next on the agenda is the
consideration of the adoption of proposed
amendments to ADEM Administrative Code
Division 335-1, General Admission
Regulations.
I guess we will hear from the
Department.

MR. KELLY: Good morning,
Mr. Chairman, members of the Commission.
I'm Russell Kelly, Chief of the Permits and
Services Division. Before you today is
consideration of the proposed revisions to
Administrative Code 335-1, Departmental
Forms, Instructions, and Procedures.
1 The Department proposes to
2 delete one form, add five new forms, and
3 modify 29 existing forms. Changes are
4 needed in order to comply to the state and
5 federal law.
6 We published notice July 31st,
7 2012 and held a public hearing on September
8 17th, 2012. And during the hearing and
9 comment period, we received no comments.
10 We respectfully request your
11 favorable consideration of the proposed
12 rules, and I yield for any questions.
13 CHAIRMAN BROWN: Anybody
14 have any questions?
15 (No response)
16 VICE CHAIRMAN PHILLIPS: I
17 move we accept the proposed rule.
18 DR. MILLER: Second.
19 CHAIRMAN BROWN: All in
20 favor?
21 (All commissioners state aye)
22 CHAIRMAN BROWN: Any
23 opposed?

1 (No response)
2 CHAIRMAN BROWN: Motion
3 passes.
4 Next on the agenda is the
5 consideration of adopted proposed
6 amendments to Administrative Code 335-6,
7 Water Quality Program Regulations.
8 We will hear from the
9 Department.
10 MR. SISK: Honorable Chair
11 and members of the Commission, I am Lynn
12 Sisk and I'm Chief of the Water Quality
13 Branch in the Water Division.
14 You have before you the complete
15 hearing record for the proposed changes to
16 the Water Quality Program regulations. In
17 July of this year the Department initiated
18 the rulemaking process to add the Swimming
19 and Other Whole Body Water-Contact Sports
20 use classification to six segments of the
21 Coosa River basin and 15 segments in the
22 Black Warrior River basin in Chapter
23 335-6-11.-.02.

1 In addition, the Department
2 proposed to add the Public Water Supply use
3 classification to a segment of Clear Creek
4 within Smith Lake in the Black Warrior
5 River basin in Chapter 335-6-11-.02.
6 On September 17th, 2012 a public
7 hearing was held to receive data, views,
8 and comments from interested persons
9 regarding the proposed revisions. Written
10 comments were accepted any time during the
11 public comment period, which extended from
12 July 31st through September 17th, 2012.
13 During the comment period, the
14 Department received written comments from
15 two individuals or organizations. At the
16 hearing on September 17th, 2012 no written
17 or oral testimony was received.
18 One commenter requested that the
19 Department reconsider the proposed addition
20 of Swimming and Other Whole Body Water-
21 Contact Sports use classification to the
22 Warrior River from Warrior Lock and Dam to
23 Oliver Lock and Dam.

1 Based on ADEM Administrative
2 Code Regulation 335-6-10-.09, paragraph
3 three describing the best usage of waters
4 to which this classification will be
5 applied, the Department has withdrawn the
6 proposal to add the Swimming and Other
7 Whole Body Water-Contact Sports use
8 classification to this segment.
9 The second comment received was
10 unrelated to the proposed changes. As
11 discussed in the reconciliation statement,
12 the Department requested that the
13 Commission adopt the proposed revisions as
14 presented to you today.
15 And I will be happy to address
16 any questions the Commission may have.
17 CHAIRMAN BROWN: Any
18 questions?
19 DR. RICHARDSON: Question:
20 Would you share with us what it was about
21 that the comment particularly pointed out
22 that ADEM took the position initially of
23 including those designations, but after
1 seeing that comment decided to remove those
designations?
3 MR. SISK: Right. As
4 originally proposed or when that
classification was originally proposed, the
Department failed to consider the language
at that site that I mentioned a while ago,
8 335-6-11-.09 that says the Commission will
9 not apply the Swimming and Other Whole Body
10 Water-Contact Sports classification where
11 there are point sourced discharges or
12 wastewater discharges.
13 And so when we went back and
14 looked at that segment, there were a number
15 of discharges that go directly into there.
16 And so in order to be compliant with that
17 particular portion of the regulations, we
18 are withdrawing that proposed segment.
19 DR. RICHARDSON: Thank you.
20 CHAIRMAN BROWN: Any other
21 questions, comments?
22 VICE CHAIRMAN PHILLIPS: I
23 move we accept the proposed regulations.

DR. RICHARDSON: Second.
CHAIRMAN BROWN: All in
favor?
(All commissioners state aye)
CHAIRMAN BROWN: All
opposed?
(No response)
CHAIRMAN BROWN: Next on the
agenda is consideration of adoption of the
addition of proposed new chapter of the
Administrative Code, Chapter 335-11-12,
Drinking Water State Revolving Fund Program
regulations and repeal of Chapter 335-7-13.
We will hear from the
Department.
MR. KELLY: Morning again.
Before you now is the consideration of the
repeal of Administrative Code 335-7-13 and
establishment of Chapter 335-11-2, Drinking
Water State Revolving Fund Program.
The new chapter will make the
Drinking Water SRF Program more consistent
with how the Clean Water SRF is operated
and allow for the full range of
eligibilities under the new federal rules.
Notice was published July 31st,
2012. The public hearing was held
September 17th, '12. During the comment
period in the public hearing, no comments
were received.
Again, we respectfully ask your
favorable consideration of the proposed
rule, and I yield for any questions.
CHAIRMAN BROWN: Any
questions, comments?
(No response)
VICE CHAIRMAN PHILLIPS: I
move that we accept.
DR. MILLER: Second.
CHAIRMAN BROWN: All in
favor?
(All commissioners state aye)
CHAIRMAN BROWN: All
opposed?
(No response)
CHAIRMAN BROWN: Motion
passes.
MR. KELLY: Thank you,
Mr. Chairman.
CHAIRMAN BROWN: Now, is
there any other business to be taken up?
(No response)
CHAIRMAN BROWN: I think our
next -- when is our next meeting?
MS. THOMAS: We have
December 14th.
CHAIRMAN BROWN: December
14th, 11:00, right here would be our next
meeting.
And unless anybody has -- we
will adjourn and have a public comment
meeting.
VICE CHAIRMAN PHILLIPS: I
move that we adjourn and move to public
comments.
MS. MERRITT: Second.
CHAIRMAN BROWN: All in
favor?
(All commissioners state aye)
CHAIRMAN BROWN: All
opposed?
(No response)
CHAIRMAN BROWN: Meeting
adjourned.
(The meeting concluded at 11:48 a.m.)
***********************

STATE OF ALABAMA
COUNTY OF MONTGOMERY

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October 19, 2012

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Baker & Baker Reporting and Video Services  
334.262.3332 888.253.3377  
(8) respectfully - surveillance
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Part B
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(Agenda Item 7)
Attachment 1
AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: October 19, 2012
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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PUBLIC COMMENT PERIOD

* 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 AUGUST 17, 2012

2. ELECTIONS

The Commission will elect a Commission Chair and Vice-Chair.

3. REPORT FROM THE DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

5. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 335-1, GENERAL ADMINISTRATION REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider the adoption of proposed amendments to ADEM Admin. Code Division 335-1, General Administration Regulations, Rule 335-1-1-.07, Departmental Forms, Instructions, and Procedures. The Department held a public hearing on the proposed amendments on September 17, 2012.

6. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 335-6, WATER QUALITY PROGRAM REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider the adoption of proposed amendments to ADEM Admin. Code Division 335-6, Water Quality Program Regulations, Chapter 335-6-11, Use Classifications. The revisions would include additions or upgrades to the use classifications for certain waterbody segments in the State and minor changes to correct errors or provide clarification. The Department held a public hearing on the proposed amendments on September 17, 2012.

7. CONSIDERATION OF ADOPTION OF ADDITION OF PROPOSED NEW CHAPTER OF THE ADEM ADMIN. CODE, CHAPTER 335-11-2, DRINKING WATER STATE REVOLVING FUND PROGRAM REGULATIONS, AND REPEAL OF CHAPTER 335-7-13, DRINKING WATER STATE REVOLVING FUND PROGRAM REGULATIONS

The Commission will consider the adoption of the addition of a proposed new Chapter of the ADEM Admin. Code, Chapter 335-11-2, Drinking Water State Revolving Fund Program Regulations, and repeal of Chapter 335-7-13, Drinking Water State Revolving Fund Program Regulations. The proposed Chapter 335-11-2 streamlines the requirements of the Drinking Water State Revolving Fund. The Department held a public hearing on the proposed addition and repeal on September 17, 2012.

8. OTHER BUSINESS

9. FUTURE BUSINESS SESSION
PUBLIC COMMENT PERIOD
(The requests from the public to address the Commission are attached to the agenda.)

Request 1

John Aaron, Esq., on behalf of concerned citizens who have an interest in the Vincent, Alabama, Shelby County area
SUBJECT: Concerns of the citizens in the town of Vincent regarding the quality of the soil and water in the area
(Chair Lester recommended approval of the request.)

Request 2

Severia Campbell Morris, on behalf of the United Concerned Citizens of Prichard
SUBJECT: Jarrett Road Landfill, Prichard, Alabama (Permit # 49-26)
(Chair Lester recommended approval of the request.)
September 25, 2012

Via Facsimile (334) 279-3052
Ms. Debi Thomas
Commission
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2400

RE: ADEM Commission meeting

Dear Sir:

My name is John Aaron, I represent concerned citizens who have an interest in the Vincent, AL, Shelby County area.

I would like to address the Environmental Management Commission to make comments regarding some concerns the residents have in the town of Vincent. The concerns of the citizens revolve around the quality of the soil and water in the area.

Thank you in advance for allowing me to address the Commission on October 19, 2012.

Sincerely,

John Aaron

JMA/slo
Mr. Lafiuer  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2400

September 28, 2012

The United Concerned Citizens of Prichard (UCCOP) was formed to give a voice to the citizens of our City. UCCOP has taken up the fight for environmental justice for those who cannot fight for themselves.

Please consider this letter an official request to come and speak to the Environmental Management Commission (EMC) at the October 19, 2012 meeting. The UCCOP wants to discuss the Jarrett Road Landfill in Prichard, Alabama (Permit # 49-26). We sent you a letter on September 6, 2012 with detailed complaints concerning this landfill.

As you will recall from the September 6th letter, this landfill and its owner, Waste Two Energy LLC and James “Buddy” Money, according to ADEM’s records have had over 100 documented permit violations and 16 separate Notices of Violations (NOVs). Also, on May 7, 2012 ADEM issued a public notice that a permit renewal would not be approved but then on June 8, 2012, without any public input, reversed and withdrew this Public Notice.

We believe Jarrett Road Landfill is an example of Environmental Injustice – a landfill located in an African American community that continually violates environmental regulations yet remains operating because no one in the community is able to fight the wealthy owner. We want to know:

1. Why was the May 7, 2012 public notice suddenly withdrawn? What communications were there with the landfill or its owners? We request copies of all communications.
2. What has Jarrett Road Landfill done to address each permit violation and NOV?
3. How many permit violations and NOVs can a landfill receive and remain open? What’s the penalty for a violation and NOV?

We look forward to addressing the EMC at the October meeting.

Sincerely,

Geneva Campbell Morris

Severt Campbell Morris
BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTIONS

Elect Lanier Brown as Chair

Elect Scott Phillips 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.
ISSUED this 19th day of October 2012.

APPROVED:

Mary Dent
Commissioner

Sam H...n
Commissioner

Scott Flavin
Commissioner

Commissioner

DISAPPROVED:

Commissioner

Commissioner

ABSTAINED:

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 19th day of October 2012.

Chair
Environmental Management Commission
Certified this 19th day of October 2012
Commendation
By the Governor of Alabama

WHEREAS, John Howard Lester, D.V.M. began his service in the Chemist/Veterinarian Position on the Alabama Environmental Management Commission with his appointment in 1994 by Governor Jim Folsom; both succeeding governors reappointed Dr. Lester for additional six-year terms in 2001 and 2006; he is the longest serving member in the history of the Commission; and

WHEREAS, in addition to his service on the Commission, Dr. Lester practiced veterinary medicine for 47 years at the Lester & Donaldson Veterinary Hospital in Enterprise, Alabama; he also served as President of the Enterprise City Council for 20 years; and

WHEREAS, during his span of 18 years on the Alabama Environmental Management Commission, Dr. Lester played an integral part in helping the Commission carry out its duties of promulgating rules, hearing appeals and managing the Director of the Alabama Department of Environmental Management (ADEM), and

WHEREAS, Dr. Lester has been instrumental in the adoption of rules and regulations protective of the health and environment of Alabama; among these are: tightening of cancer risk level rules in the water quality regulations; revisions and additions to water quality stream classifications, including the establishment of the Trehawek State Game Sanctuary; special designation; development of rules and regulations, as well as funding for scrap tire cleanup and recycling; establishing the State Fund program pertaining to dry cleaning operations, underground storage tanks, solid waste recycling and drinking water; revisions to air rules and regulations, including those regulating acid rain, ozone, fine particles and other air pollutants; revisions and addition of rules and regulations regarding water discharge permits, among them enhanced oversight of concentrated animal feeding operations; and revisions to regulations to provide adequate funding of ADEM operations; and

WHEREAS, through Commission resolutions, Dr. Lester has sponsored expressions of gratitude to legislators for enacting the State Scrap Tire Management Program and abating taxes to encourage Brownfield re-development; he has also sponsored the legislation to reauthorize funding for the Forever Wild program; and

WHEREAS, as part of his service on the Commission, Dr. Lester, along with his fellow commissioners, acted upon appeals of ADEM’s permit issuance, administrative orders and regulations; among the most courageous actions was the one to issue Air and Hazardous Waste permits for the incineration of chemical munitions at the Anniston Army Depot which, though strongly opposed by activists groups, resulted in the safe and thorough destruction of more than 600,000 deadly chemical weapons and a dramatically safer environment in the state of Alabama; and

WHEREAS, during his term of service, ADEM was able to move from spread out, inadequate office and laboratory facilities at multiple sites in Montgomery to modern, efficient facilities at a single site; all areas of the state which were designated as non-attainment for ozone and fine particulates reduced concentrations to attainment levels; and

WHEREAS, as a member of the AEMC, Dr. Lester has been directly involved in the hiring and managing of five ADEM Directors during his tenure; Dr. Lester has been supportive of the Directors of ADEM, its supervisors and its staff, often expressing his gratitude for their efforts.

WHEREAS, Dr. Lester has been a leader on the Commission serving twice as Chair and once as Vice-Chair; throughout his 18 years of service, Dr. Lester demonstrated his dedication to the Commission and ADEM and his concern for the environment and the citizens of Alabama:

NOW, THEREFORE, I, Robert Bentley, Governor of Alabama, do hereby commend

John Howard Lester, D.V.M.

for his outstanding service to the state of Alabama and the Alabama Environmental Management Commission.

Given Under My Hand and the Great Seal of the Office of the Governor at the State Capitol in the City of Montgomery on the 14th day of October 2012.

[Signature]
Robert Bentley, Governor
Attachment 4
RESOLUTION

WHEREAS, John Howard Lester, D.V.M. completed 18 years of service as a member of the Alabama Environmental Management Commission in the Chemist/Veterinarian Position as of October 1, 2012, and will continue to serve until a new member is appointed to this Position; and

WHEREAS, his leadership abilities were recognized by his election as Vice-Chair of the Commission in October 2009, a position he held until October 2010, and as Chair of the Commission for two terms, spanning from October 2010 to October 2012; and

WHEREAS, his personable and caring manner and steadfast dedication to his service on the Commission will be greatly missed by his fellow Commissioners, the Commission’s legal counsel and assistant, leadership and staff of the Alabama Department of Environmental Management, and many within the governmental, regulated, and environmental communities; now

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

DONE this 19th day of October 2012.

[Signatures]
Attachment 5
ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION


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

WHEREAS, the Alabama Department of Environmental Management did not receive any written or oral comments at the public hearing or during the public comment period.

ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION

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

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of October 2012.

APPROVED:

Mary Bennett
W. Scott Phillips
Tom Mitt

Harrin Brown
Gary D Richardson
John Lester

DISAPPROVED:

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of October 2012.

Chair
Environmental Management Commission
Certified this 19th day of October 2012
Attachment 6
ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION


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

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

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

NOW THEREFORE, pursuant to Ala. Code §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-6 [335-6-11-.02/Use Classification (Amend)] administrative code attached hereto, to become effective thirty-five days, unless otherwise indicated, after filing with the Alabama Legislative Reference Service.
ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION
ADEM Admin. Code chapter 335-6-11
Water Division – Water Quality Program Regulations

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of October 2012.

APPROVED:

Mary Beth

John Scott

W. Scott Flower

Hamer Brown

Sam Miller

Jerry D. Richardson

DISAPPROVED:

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of October 2012.

Chair
Environmental Management Commission
Certified this 19th day of October 2012
Attachment 7
ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION


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

WHEREAS, the Alabama Department of Environmental Management did not receive any written or oral comments at the public hearing or during the public comment period.

ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION
ADEM Admin. Code division 335-11-2 Drinking Water State Revolving Fund and
Repeal of 335-7-13 Water Division Program Rules and Regulations

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of
October 2012.

APPROVED:

Mary Beth
IVY

L. Scott

J. Francis
J. F. Smith

Jerry D. Richardson

DISAPPROVED:


This is to certify that this Resolution is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 19th day of October 2012.

Chair
Environmental Management Commission
Certified this 19th day of October 2012