Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
April 15, 2016
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 April 15, 2016.

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

Certified this 17th day of June 2016.
Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
April 15, 2016

Convened: 11:15 a.m.
Adjourned: 11:50 a.m.

Part A

Transcript
Word Index

Part B

Attachment Index
Attachment 1
Attachment 2
Attachment 3
Part A
CHAIRMAN BROWN: Good morning. We will call to order the April 15th, 2016 meeting of the Alabama Environmental Management Commission. Hope everybody is having a great tax day.

Acknowledgement that we have a quorum present.

First item on the agenda is consideration of the minutes of the meeting held on February 19th, 2016.

Chair will consider a motion.

MR. MILLER: I motion that we accept them.

MR. PHILLIPS: I second.

CHAIRMAN BROWN: All in favor?

THE COMMISSION: Aye.

CHAIRMAN BROWN: Next on the agenda is the report from the Director.

Director.

Mr. Director, good morning.

DIRECTOR LeFLEUR: Good morning. I'm glad to see you've seen your way through the wreck on the interstate. Good to see.

CHAIRMAN BROWN: More like circumvented it through Clanton and other parts.

DIRECTOR LeFLEUR: All right. Well, good morning to all. Today's report will address efforts to obtain increased Departmental funding from the General Fund, highlight the Department's activities in the area of Environmental Justice, and notify you of a recent Civil Rights Act Title VI complaint filed against the Department that EPA is now required to investigate.

The Legislature adopted a FY
2017 General Fund budget, which the Governor vetoed. The Legislature overrode the Governor's veto so the General Fund budget is now final. It is possible the Governor may call a special session of the Legislature some time in the coming weeks to address Medicaid funding. Actions in any special session may impact some General Fund appropriations. As you may recall from the February Director's report to the Commission, the Department requested a total of $8.5 million in funding from the General Fund, $6 million of which was for a new facility in Mobile to house our field office and coastal program in a single location. The remaining $2.5 million requested was to cover emergency response funding, increased resources to meet the demands of the new federal coal ash and eReporting regulations and the Department's cost related to the state-mandated new financial reporting system. Given the State's financial challenges, we were doubtful all these well-justified requests would be granted, and our doubts were confirmed. The final ADEM FY 2017 General Fund appropriation is $400,000, which is earmarked to administer the Concentrated Animal Feeding Operations, or CAFO, Program. This compares to the FY '16 appropriation of $280,000 earmarked for the CAFO Program and a $1.2 million transfer to the General Fund from fees dedicated to cleaning up existing pollution. Fortunately, the FY 2017 General Fund budget does not call for an ADEM transfer of fees to the General Fund. Since the $6 million budget request for new facilities in Mobile was not granted, the Department will be submitting a proposal for funding the new facilities to a council set up to administer funds coming to Alabama as a result of the recently approved 2010 BP oil spill settlement. We are finalizing plans to respond to the available operational funding in the FY 2017 budget and will be reporting those plans at a future Commission meeting. The Commission has expressed an ongoing interest in the Environmental Justice activities of the Department. Today's report will provide an update on those activities. The report will focus on four areas: The history and definition of Environmental Justice, or EJ; ADEM personnel that have been designated to coordinate EJ activities; the Department's implementation of elements of the EPA-developed Plan EJ 2014; and finally, a summary of EJ activities of the Department that go above and beyond even those EPA has undertaken. It's appropriate to begin with some history and a definition of the term "Environmental Justice," or EJ. In 1994 Presidential Executive Order 12898 was signed. In the Order, specified federal
1 agencies were directed to -- and
2 I'm quoting -- make achieving
3 Environmental Justice part of
4 its mission by identifying and
5 addressing, as appropriate,
6 disproportionately high and
7 adverse human health or
8 environmental effects of its
9 programs, policies, and
10 activities on minority
11 populations and low-income
12 populations, close quote.
13 Unlike the Civil Rights Act,
14 which is a federal law with
15 associated regulations binding
16 on all federal, state and local
17 governments, as well as other
18 organizations and individuals,
19 the Presidential Order is not a
20 law and is only binding on
21 certain identified federal
22 agencies, including EPA, in the
23 executive branch of the federal
24
government.
25 While EPA itself is subject
26 to the Order, the Order does not
27 confer on EPA any statutory or
28 regulatory obligation or
29 authority to require any
30 Environmental Justice related
31 action by any state
32 environmental regulatory agency.
33 Only Federal environmental
34 statutes, including the Clean
35 Water Act, Safe Drinking Water
36 Act, Resource Conservation
37 Recovery Act, and the Clean Air
38 Act, grant EPA authority to
39 adopt implementing rules and
40 regulations, through a formal
41 process, that are binding on
42 state environmental regulatory
43 agencies. In all cases, EPA's
44 authority is limited to its
45 rules and regulations as adopted
46 in the formal rulemaking
47
1 process.
2 Since EJ is not incorporated
3 in any statute, no rules or
4 regulations for its
5 implementation have been
6 adopted, and thus, EPA has no
7 statutory or regulatory
8 authority to require any state
9 to undertake any EJ activity.
10 EJ is only an internal EPA
11 initiative. EPA has developed
12 internal agency policy to
13 advance its EJ initiative, but
14 only recommends that states
15 adopt EJ initiatives. An EJ
16 program is totally voluntary for
17 states.
18 In 2011, EPA developed a
19 document titled "Plan EJ 2014"
20 as a roadmap for integrating EJ
21 into its programs and policies.
22 EPA also entered into a
23 Memorandum of Understanding with
24 16 other federal agencies and
25 White House Offices that
26 reaffirmed their commitment to
27 implementing the Presidential
28 Executive Order.
29 ADEM has determined that EJ
30 is a worthy concept and has
31 taken a number of actions during
32 the past ten years, including
33 adapting and implementing a
34 number of the EPA "Plan EJ 2014"
35 elements to confirm the fair
36 treatment of minority and
37 low-income communities as the
38 Department executes its mission
39 to assure for all citizens a
40 safe, healthful, and productive
41 environment.
42 While ADEM engages in many
43 outreach activities to the
44 general public, today's report
45 identifies enhanced activities
46 focused on minority and
low-income populations in specific areas identified by EPA, which are referred to as "EJ areas" or "EJ communities."

The first step in implementing an EJ program is to assign and manage the necessary human resources. EJ coordinators have been assigned in each of the Department's three media: Air, land and water. Because of the importance of this effort, the coordinators have their EJ activities overseen by the Deputy Director. The Deputy Director meets with the coordinators regularly to manage activities and assess progress. The personnel assigned to coordinate EJ activities receive the specialized training necessary to be effective in their work. The ongoing training often involves EPA-sponsored programs.

EPA has devoted considerable effort and resources to studying and developing its internal program to promote Environmental Justice. As mentioned a few moments ago, the results are set out in a document titled "Plan EJ 2014," which is in the process of being updated in an activity called "EJ 2020 Action Agenda Framework." The Department has implemented many activities included as elements of the EPA "Plan EJ 2014," as well as a number of activities that go above and beyond the "Plan EJ 2014" elements. The next several slides will first show some of the "Plan EJ 2014" elements that have been implemented by the Department and will then highlight where the Department has gone above and beyond the EPA plan. First, the elements identified in the EPA "Plan EJ 2014" all of which are being implemented by the Department. Rulemaking is the initial step in the environmental regulatory process. Soliciting public input in the environmental regulatory process is one of the most basic tenets of Environmental Justice. Since the Department was created, all rulemaking has been preceded by public comment periods. In recent years, the Department has simplified public notices to make them more readable and more likely to stimulate public involvement. The Department has also petitioned EPA to modernize its outdated public notice regulations by incorporating new electronic methods of providing public notices. This action has now become a national issue and proposed new regulations are currently under review at the U.S. Office of Management and Budget.

In the interest of engaging the public, especially those in the EJ communities, in permitting, the second step in the regulatory process, the Department has developed early notification tools, such as the "What's Happening in Your County?" webpage, enhanced formal public comment opportunities and public meeting opportunities, all of which exceed statutory, regulatory,
and EPA requirements.
After permitting, the environmental regulatory process involves assessing compliance with permit conditions and taking enforcement actions when there is noncompliance. The Department has an increased frequency of inspections in EJ areas, often as a result of increased use of the eComplaint application on the ADEM website. Appropriate remedies when violations occur in EJ areas are often implemented using either the EPA -- quote, Environmental Collaborative Problem-Solving Model -- close quote, as was the case with the Anniston lead contamination removal, or through multi-participant initiatives as is being done with the Uniontown Waste Water Treatment Plant, the Bayou La Batre Waste Water Treatment Plant, and the mercaptan release in the City of Eight Mile.

The Department, like EPA, looks for new community-based practices to promote environmental justice. In this area, the Department has developed several programs, including: Regular meetings with all interested EJ and environmental advocacy groups; regular formal citizen's opinion surveys; and commissioning independent study of EJ community issues, in particular those related to the siting of landfills. Another group of community-based activities involves enhanced EJ community training sessions, which can take the form of meetings with minority elected leaders to demonstrate how to access grant funds and low-interest loans, undertake brownfield redevelopment, and manage storm water or illegal solid waste or scrap tire dump cleanup. Targeted training is also provided, on a one-to-one basis to minority and low-income citizens at local libraries or other local venues on how to file a complaint, how to find out what is happening in their community related to the environment, and how to use the various alternative methods to get linked in. Another element of the EPA "Plan EJ 2014" recognizes that there are benefits to cooperation between EPA and the states. EPA and ADEM have been involved in a number of interagency cooperative initiatives, including the EPA Urban Watershed Initiative, which included the Fairview Environmental Park project in Montgomery, which, by the way, I was notified just yesterday, won EPA's prestigious "Rain Catcher Award," also co-sponsorship of the Southeastern Environmental Justice Conference, designation of a Center for Excellence in Watershed Management at Alabama A&M University, a minority agricultural community outreach program at Tuskegee University and others.

The final EPA "Plan EJ 2014" element involves the development of various tools to advance EJ initiatives. Numerous tools have been developed inhouse at
the Department, including Geographic Information System, or GIS, tracking maps for environmental programs in EJ areas, the eFile system that allows any interested party to see all documents related to all regulated facilities, and the previously mentioned eComplaint and "What's Happening in Your County?" web applications. The Department is also undertaking Department-wide training on the newest EPA developed tool called EJSSCREEN that provides census block data on parameters that help identify EJ populations that may be subject to disproportionate environmental burdens.

Earlier, I noted that the Department has gone above and beyond what EPA has done in its Total Maximum Daily Loading limits, or TMDLs, have been developed; the number of water quality sampling stations; the number of fish tissue sampling stations; the number of non-point source grant awards; the number of diesel retrofit grant awards; the number of brownfield sites cleaned up; the number of illegal solid waste dumps cleaned up; and the number of illegal scrap tire dumps cleaned up. In every case, the majority have been in EJ areas. When prioritizing which dump sites are to be cleaned up, the Department gives extra ranking weight to those in EJ areas. Additionally, disadvantaged EJ communities are eligible for partial principal forgiveness in the drinking water State

"Plan EJ 2014." These final slides are intended to provide you with a sense of the extra effort the Department is investing in EJ activities. Not only does the Department train our assigned EJ coordinators and teach our personnel how to use new EJ-related tools, since 2007, the Department has provided formal Environmental Justice training for all staff, including our legal staff. The Department tracks where environmental improvement activities have actually taken place. It is worthwhile to note that of the nine program metrics tracked, between 64 percent and 100 percent have been in or abut EJ communities. The metrics include such things as how many

Revolving Fund Program. In national forums and at least semiannually in meetings with the Region 4 administrator, the Department is a consistent advocate for EPA to back up its commentary on EJ with dollars to help address the crumbling wastewater infrastructure in many EJ areas. The Department also has specifically targeted EJ areas for a number of programs. For example, knowing that the Selma-to-Montgomery Voting Rights Trail is in the middle of the largest EJ area in the state, the Department has performed an unprecedented number of assessments of brownfields sites along the trail. You may recall that the majority of the August 2015
Director's report to the
Commission was dedicated to this area and this issue.
Special compliance assistance has been provided to 96 communities in EJ areas to review local government Aboveground Storage Tank inspections, containment and other procedures to avoid costly undetected leaks.
Environmentally related health programs such as the Asthma Initiative, Young Lungs at Play, and the No Idling Campaign at schools, are aimed at young people, many of whom are in disadvantaged communities.
Earth Day activities, Water Festivals and the like, provide environmental education opportunities to thousands of students in addition to the targeted one-on-one meetings mentioned a few moments ago.
The Community Leaders Institute at three historically black Alabama educational institutions, supported by ADEM, focuses on the relationship between environmental protection, human health, environmental justice, and economic development.
The Department has an ongoing program to find innovative ways to be competitive in attracting minority students to work at ADEM. The program includes developing broad ties to historically black universities to feed co-op students and interns into the Department while they are still in school.
The effort also includes involvement in the Inner City Career Connection program, Job Fairs, Professional Employment Day programs, and the like.
As you can see, the Department is involved in many activities relating to Environmental Justice.
Personnel are assigned to coordinate EJ activities.
Department activities incorporate those set out in the EPA developed "Plan EJ 2014" programs and the Department engages in EJ activities that go above and beyond what EPA does.
ADEM EJ activities are systematic, focused and results oriented. Very few, if any, are mandated by statute or regulation which may actually contribute to their effectiveness.
Copies of an outline of ADEM's Environmental Justice activities, as well as a reference copy of the more detailed compilation of the Department's broader community outreach activities included in a loose-leaf book titled "Community Engagement" are available on the table in the lobby for review. The book is in loose-leaf format because it is a living document, subject to update and input from interested parties. The electronic version of "Community Engagement" is available on the Department's website by first selecting "More Information" on the homepage and then selecting the "Publications" option.
That brings me to the final matter in today's report. Despite the robust Environmental Justice program just described, the Department has been the target of two Civil Rights Act Title VI complaints during the last several years. Unlike Environmental Justice, which is based solely on voluntary participation, Title VI complaints are based on law, specifically the Civil Rights Act of 1964. Both complaints were filed by the same attorney and both relate to the renewal and/or modification of landfill permits. The first complaint involved the Perry County landfill, while the one just filed relates to the City of Dothan landfill.

The requirements that must be met for EPA to investigate a complaint are: The complaint must be in writing; it must identify an action that purports to be a discriminatory act; the complaint must be filed within 180 days of the alleged discriminatory act; and the proposed defendant must be the recipient of federal funding. In both cases, these conditions were met and EPA is therefore required to undertake the investigations. The Department is fully cooperating with the EPA investigations. To date, the Department has provided more than 25,000 pages of requested documents. The Department anticipates EPA will find no indication of a violation of any kind. Nonetheless, the Department must expend its scarce resources to address these issues head-on. ADEM will continue with the outreach efforts to communities as highlighted in both the EJ program and the "Community Engagement" document with the objective of demonstrating more productive avenues to addressing community concerns. That concludes today's report. I'll be pleased to answer any questions you may have.

CHAIRMAN BROWN: Anyone have any questions for the Director? (No response.)

CHAIRMAN BROWN: No comments. I have a question.

DIRECTOR LeFLEUR: Yes, sir.

CHAIRMAN BROWN: You
addresses disproportionate impact, which is different than disproportionate treatment. And like I said, that's a topic that's had a lot of conversation about. Is a permit acceptable for one group and the same permit not acceptable for another group?

CHAIRMAN BROWN: And I just don't recall off the top of my head, but two Title VI complaints for Perry County and Dothan landfills, were those based on modifications or -- to the landfill itself?

DIRECTOR LeFLEUR: The Perry County appeal was based on a renewal of the permit and a modification of the permit. The Dothan appeal was based on a modification of the permit.

CHAIRMAN BROWN: Expansion?

DIRECTOR LeFLEUR: Expansion. That's correct.

CHAIRMAN BROWN: And how are we to integrate the Department's or EPA's Environmental Justice concerns or policies with the local government's responsibility for zoning sites?

DIRECTOR LeFLEUR: Well, in the case of landfills, state law grants the authority to site a landfill to the locally elected body. In the case of a city, it would be the city council. For outside the city, it would be the county commission. They have the sole ability to site a landfill. The Department has the responsibility to make sure once they have sited the landfill, that the landfill is designed and constructed in a way that is protective of human health and the environment and that it is operated in a way that's protective of human health and the environment.

The Department has no ability to oversee the siting of landfills, but rather to make sure that the landfill, wherever it's sited, that it is protective, it is safe and it's protective of health and the environment.

The local body that sites the landfill has six criteria that they need to consider when siting a landfill, such things as traffic and those kinds of things. But those are the criteria that the local authority is responsible for considering in their decision whether or not to site the landfill.

CHAIRMAN BROWN: Okay.

MR. PHILLIPS: Mr. Director, thank you for your presentation. I would like to ask to get a copy of that from your notes for the Committee meeting. But my question is: You refer to EPA's EJ framework document 2014 plan, are we aware of any rules or regulations that they are planning to add relative to Environmental Justice?

DIRECTOR LeFLEUR: Because it's a Presidential Executive Order and binding on EPA but not binding on any other non-executive branch entities, EPA is prohibited from having rules or regulations directly related to EJ. However, they do work with each of the states informally to help them advance EJ programs. And they do have...
tools that they've built. As I
mentioned, the EJ screening
tool, which uses census data to
try to get a handle on those EJ
issues.
Now, they have struggled,
frankly, with how to incorporate
EJ into the permitting process
and enforcement in those kinds
of things. And to date, their
primary initiatives have been
directed toward community
involvement to make sure that
the community is informed, to
make sure that they have an
opportunity to speak when the
time comes for these permits to
be issued.
MR. PHILLIPS: Thank you.
CHAIRMAN BROWN: Thank you.
Any Commissioners have any other
questions of the Director?
(No response.)

CHAIRMAN BROWN: Thank you.
DIRECTOR LeFLEUR: I will
remind everybody that Tuesday is
Earth Day. We are having
celebrations here and Tuskegee.
CHAIRMAN BROWN: Next item
on the agenda is a report from
the Rulemaking Committee Chair.
And I'll turn it over to
Commissioner Phillips.
MR. PHILLIPS: Thank you,
Mr. Chair. This morning at
10:00 a.m. we had a Rulemaking
Committee meeting. And the
purpose of that Rulemaking
Committee meeting was to reflect
on our guidelines that we have
prepared. As you're aware, on
the agenda today, we have an
item for the consideration to
proceeding to rulemaking with
proposed amendment that the
Committee brought to the full
Commission at our last meeting.
Based on that, we decided
that we really needed to dig
into our guidelines, look at
those much more closely should
the full Commission today decide
to move forward with that, that
we would be prepared to bring
back our recommendations of
those guidelines in our June
meeting so that you have time to
digest those before the
rulemaking process would have
been completed.
The second item we took up
was one that Commissioner
Richardson had brought to the
full Commission and was referred
to the Rulemaking Committee,
which was to look at
Environmental Justice and the
policy of this Commission
relative to Environmental
Justice. We had information
that had been gathered for us
that we had received today in
our Committee meeting. We knew
that our Director was going to
make his presentation today,
which would provide additional
information for us. And when
Commissioner Richardson returns
in our June meeting, we will
take that discussion up.

Our next Committee meeting
is at 10:00 a.m. before our next
Commission meeting in June.
I'll take any questions that
the Commission may have.
(No response.)
CHAIRMAN BROWN: Thank you.
Next item is the report from the
Commission Chair. And I'll just
apologize for being late due to
the interstate being shut down
due to an accident. And I think
Commissioner Martin was caught up as well. Next item is consideration to Rulemaking proposed amendments to ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05. I'll call on the --

MR. PHILLIPS: No. This is before the full Commission.

CHAIRMAN BROWN: Okay. Call on Chair Phillips to present the Committee's recommendation.

MR. PHILLIPS: Thank you, Mr. Chair, once again. And just to clarify, we are not passing a rule today. We are only taking the question of going out or commencing the rulemaking process. So all of the Commission received the Committee's recommendations for changes to the Rule 335-2-3-.05 Agenda. Those recommended changes also reflect the inclusion of guidelines, which we will present at the next meeting. But what we are recommending to the Commission are these changes and to issue -- or to approve going out for rulemaking process. So once again, you would not be approving the rule change, you would be approving the process of going to rulemaking process. And I'll take any questions about those changes that we suggested.

MR. MILLER: So what you're asking today is just to implement the start of a rulemaking process?

MR. PHILLIPS: Right.

Correct. Should you approve that process being started, then Debi, the timing -- this would come back most likely, unless there's something that came up we're not aware of in the August --

MS. THOMAS: August, yes, sir.

MR. PHILLIPS: At the August meeting. At that time, you would have benefit of comments that had come from the public for consideration. And at that time, we would take before us whether to approve or deny the rule changes.

MR. MARTIN: Do you need a motion or does it --

MR. PHILLIPS: I make a motion to proceed to rulemaking with the proposed amendments.

MR. MARTIN: Second.
1 CHAIRMAN BROWN: All in
2 favor?
3 THE COMMISSION: Aye.
4 CHAIRMAN BROWN: We are
5 adjourned.
6
7 (THE ALABAMA ENVIRONMENTAL MANAGEMENT
8 COMMISSION MEETING WAS CONCLUDED AT 11:50
9 A.M.)

1  CERTIFICATE
2 STATE OF ALABAMA
3 COUNTY OF CONECAH )
4 I hereby certify that the above and
5 foregoing transcript of proceedings was
6 taken down by me in machine shorthand, and
7 the questions and answers thereto were
8 transcribed by means of computer-aided
9 transcription, and that the foregoing
10 represents a true and correct transcript of
11 the proceedings given by said witness upon
12 said hearing.
13 I further certify that I am neither
14 of counsel nor of kin to the parties to the
15 action, nor am I in anywise interested in
16 the result of said cause.
17 I further certify that I am duly licensed
18 by the Alabama Board of Court Reporting as
19 a Certified Court Reporter as evidenced by
20 the ACCR number following my name below.
21
22 CHARITY McCULLEY ACCR# 424
23 My Commission Expires: 2/15/17
CERTIFICATE

STATE OF ALABAMA

COUNTY OF CONECUH

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

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

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

Charity McCulley

CHARITY McCULLEY ACCR# 424

My Commission Expires: 2/19/17
Alabama Department of Environmental Management
Commission Meeting
April 15, 2016

10:20:30:12
Catcher (1)
20:9
captured (1)
41:1
celebrations (1)
38:5
census (2)
21:15;37:3
Center (1)
20:13
certain (1)
9:21
Chair (7)
3:14;38:8,12;40:20;
41:14,17;44:17
CHAIRMAN (23)
3:1,19,22,4:7,31,17,
20:3,32:7,33:10,23,
34:3,36:1,37:20,38:1,
6:40;18:4,13:44:1,4,
7,17:45:1,14
challenges (1)
6:9
change (1)
42:13
changes (5)
42:2,4,9,17,43:17
Chevron (1)
44:9
circumvented (1)
4:8
citizens (2)
12:16;19:11
citizen's (1)
18:14
City (6)
18:4,27:3,29:22;
34:13,14,15
Civil (5)
4:19,9,13:29:6,13;
32:18
Clinton (1)
4:8
clarify (1)
41:18
Clean (2)
10:11,14
cleaned (4)
23:10,12,14,17
cleaning (1)
6:23
cleanup (1)
19:7
close (2)
9:12,17:18
closely (1)
39:5
cord (1)
6:3
costal (1)
5:21
Code (1)

41:6
Collaborative (1)
17:17
coming (2)
5:9,7:12
commencing (1)
41:21
comment (2)
15:18,16:20
commentary (1)
24:7
comments (2)
31:21,43:12
Commission (23)
3:5,21:5,15:7,20,22;
25:2,34:16,39:1,6,18,
22:40;14,16,20:41:8,
12:23,42:8,44:3,14:18,
45:3,8
Commissioner (4)
38:10,39:16,40:9;
41:1
Commissioners (1)
37:21
commissioning (1)
18:15
commitment (1)
12:3
Committee (8)
36:6,38:8,14,16,23;
39:19,40:4,12
Committee's (2)
41:15,42:1
communities (10)
12:14,13:4,16,13;
22:22,23,21,25,6,19;
31:6,32:4,17
community (12)
18:17,21,19:15;
20:16,26:5,28:8,11,18;
31:8,12,37:12,14
community-based (2)
18:6,20
compares (1)
6:18
competitive (1)
26:17
compilation (1)
28:7
complaint (6)
4:20;19:13,29:19;
30:3,3,7
complaints (4)
29:7,12,15,33:13
completed (1)
39:14
compliance (2)
17:4,25:4
Concentrated (1)
6:16
concept (3)
12:7,32:8,22
concern (2)
31:12,34:6
CONCLUDED (1)
45:8
concludes (1)
31:13
conditions (2)
17:5,30:12
confer (1)
10:4
Conference (1)
20:12
confirm (1)
12:12
confirmed (1)
6:12
Connection (1)
27:13
Conservation (1)
10:13
consider (2)
3:14,35:15
considerable (1)
14:4
consideration (4)
3:11,38:20,41:3;
43:14
considering (1)
35:21
consistent (1)
24:5
constructed (1)
34:22
containment (1)
25:9
contamination (1)
17:20
continue (1)
31:5
contribute (1)
28:1
conversation (2)
32:14,43:5
co-op (1)
26:22
cooperating (1)
30:17
cooperation (1)
19:22
cooperative (1)
20:2
cordinate (3)
8:9,13:21,27:12
cordinators (4)
13:9,14,18,22:8
Copies (1)
28:3
copy (2)
28:6,36:5
cosponsorship (1)
20:10
cost (1)
6:5
costly (1)
25:10
council (2)
7:11,34:14
County (6)
16:19,21:11,29:20;
33:13,18,34:16
cover (1)
5:23
created (1)
15:16
criteria (2)
35:14,19
crumbling (1)
24:8
currently (1)
16:8

D

Daily (1)
23:1
data (2)
21:16,37:3
date (2)
30:18,37:10
day (4)
3:7,25,20;27:6,38:4
days (1)
30:8
Debi (1)
43:3
decide (1)
39:6
decided (1)
39:2
decision (1)
35:21
dedicated (2)
6:23,25:2
defendant (1)
30:10
definition (4)
8,6,9,32:9,10
demands (1)
6:3
demonstrate (1)
19:2
demonstrating (1)
31:10
deny (1)
43:16
Department (39)
4:21,5,15:7,9,8:2;
14:12,15:14,15:15:15:1;
8,16,19,23,16:16:17;
18:5,9:21,1,12,22,22:4;
6,11,5:18,23:24,5:11,
18:26,14:23,27:8,16;
29:5,30:16,19,21,31:2;
34:18,35:5
Departmental (2)
4:14,27:13
Department's (7)

4:16,6:5,8:10,13:10;
28:8,19,34:4
Department-wide (1)
21:13
Deputy (2)
13:16,16
described (1)
29:4
designated (1)
8:9
designation (1)
20:12
designed (1)
34:22
Despite (1)
29:3
detailed (1)
28:7
determined (1)
12:6
developed (8)
11:19,18,16:16;
18:10,20,23:21:14;
23:3,27,15
developing (2)
14:6,26,20
development (2)
20:20,26:13
devoted (1)
14:4
diesel (1)
23:8
different (2)
32:17,33:2
dig (1)
39:3
digest (1)
39:12
directly (2)
9:13,7,12
director (1)
36:19
Director (18)
4:1,2,3,10:13,16,17;
31:18,22,32:5,12;
33:17,34:1,9,36:2,13;
37:22,38:2,40:5
Director's (2)
5:14,25:1
disadvantaged (2)
23:20,25:18
discriminatory (2)
30:6,9
discussion (1)
40:11
dismissed (1)
44:11
disproportionate (4)
21:19,32,39:33,1,3
disproportionately (2)
9:6,32,2
document (5)
11:19,14,10,28:15;
<table>
<thead>
<tr>
<th>Title</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>table (1)</td>
<td>28:12</td>
</tr>
<tr>
<td>Tank (1)</td>
<td>25:8</td>
</tr>
<tr>
<td>target (1)</td>
<td>29:6</td>
</tr>
<tr>
<td>Targeted (3)</td>
<td>19:8:24:12:26:2</td>
</tr>
<tr>
<td>tax (1)</td>
<td>3:6</td>
</tr>
<tr>
<td>teach (1)</td>
<td>22:8</td>
</tr>
<tr>
<td>ten (1)</td>
<td>12:9</td>
</tr>
<tr>
<td>tenets (1)</td>
<td>15:14</td>
</tr>
<tr>
<td>term (1)</td>
<td>8:19</td>
</tr>
<tr>
<td>therefore (1)</td>
<td>30:13</td>
</tr>
<tr>
<td>THOMAS (1)</td>
<td>43:8</td>
</tr>
<tr>
<td>thousands (1)</td>
<td>25:23</td>
</tr>
<tr>
<td>three (2)</td>
<td>3:6</td>
</tr>
<tr>
<td>thus (1)</td>
<td>11:6</td>
</tr>
<tr>
<td>ties (1)</td>
<td>26:20</td>
</tr>
<tr>
<td>timing (1)</td>
<td>43:3</td>
</tr>
<tr>
<td>tire (2)</td>
<td>19:7:23:13</td>
</tr>
<tr>
<td>tissue (1)</td>
<td>23:5</td>
</tr>
<tr>
<td>Title (4)</td>
<td>4:19:29:7:11:33:12</td>
</tr>
<tr>
<td>titled (3)</td>
<td>11:19:14:10:28:10</td>
</tr>
<tr>
<td>TMDLs (1)</td>
<td>23:5</td>
</tr>
<tr>
<td>took (1)</td>
<td>39:15</td>
</tr>
<tr>
<td>tool (2)</td>
<td>21:14:37:3</td>
</tr>
<tr>
<td>top (1)</td>
<td>33:11</td>
</tr>
<tr>
<td>topic (2)</td>
<td>32:13:33:4</td>
</tr>
<tr>
<td>total (2)</td>
<td>5:16:23:1</td>
</tr>
<tr>
<td>totally (1)</td>
<td>11:16</td>
</tr>
<tr>
<td>toward (1)</td>
<td>37:12</td>
</tr>
<tr>
<td>tracked (1)</td>
<td>22:20</td>
</tr>
<tr>
<td>tracking (1)</td>
<td>21:3</td>
</tr>
<tr>
<td>tracks (1)</td>
<td>22:15</td>
</tr>
<tr>
<td>traffic (1)</td>
<td>35:17</td>
</tr>
<tr>
<td>Trail (2)</td>
<td>24:16:22</td>
</tr>
<tr>
<td>train (1)</td>
<td>22:7</td>
</tr>
<tr>
<td>transfer (2)</td>
<td>6:21:7:4</td>
</tr>
<tr>
<td>try (1)</td>
<td>37:4</td>
</tr>
<tr>
<td>Tuesday (1)</td>
<td>38:3</td>
</tr>
<tr>
<td>turn (1)</td>
<td>38:9</td>
</tr>
<tr>
<td>Tuskegee (2)</td>
<td>20:17:38:5</td>
</tr>
<tr>
<td>two (2)</td>
<td>29:6:33:12</td>
</tr>
<tr>
<td>U</td>
<td></td>
</tr>
<tr>
<td>under (2)</td>
<td>16:8:32:17</td>
</tr>
<tr>
<td>undertake (3)</td>
<td>11:9:19:4:30:14</td>
</tr>
<tr>
<td>undertaken (1)</td>
<td>8:16</td>
</tr>
<tr>
<td>undertaking (1)</td>
<td>21:12</td>
</tr>
<tr>
<td>undetected (1)</td>
<td>25:11</td>
</tr>
<tr>
<td>Uniontown (1)</td>
<td>17:23</td>
</tr>
<tr>
<td>universities (1)</td>
<td>26:21</td>
</tr>
<tr>
<td>University (2)</td>
<td>20:15:17</td>
</tr>
<tr>
<td>unless (1)</td>
<td>43:4</td>
</tr>
<tr>
<td>Unlike (2)</td>
<td>9:13:29:8</td>
</tr>
<tr>
<td>unprecedented (1)</td>
<td>24:19</td>
</tr>
<tr>
<td>40:11:41:2:43:5:44:15</td>
<td></td>
</tr>
<tr>
<td>webpage (1)</td>
<td>16:19</td>
</tr>
<tr>
<td>website (2)</td>
<td>17:12:8:28:20</td>
</tr>
<tr>
<td>weeks (1)</td>
<td>14:12</td>
</tr>
<tr>
<td>weight (1)</td>
<td>5:9</td>
</tr>
<tr>
<td>well-justified (1)</td>
<td>23:19</td>
</tr>
<tr>
<td>What's (2)</td>
<td>6:10</td>
</tr>
<tr>
<td>whiteface (2)</td>
<td>16:18:21:10</td>
</tr>
<tr>
<td>wherever (1)</td>
<td>35:8</td>
</tr>
<tr>
<td>White (1)</td>
<td>12:2</td>
</tr>
<tr>
<td>within (1)</td>
<td>30:7</td>
</tr>
<tr>
<td>won (1)</td>
<td>20:8</td>
</tr>
<tr>
<td>work (3)</td>
<td>14:1:26:18:36:21</td>
</tr>
<tr>
<td>worthwhile (1)</td>
<td>22:18</td>
</tr>
<tr>
<td>worthy (1)</td>
<td>12:7</td>
</tr>
<tr>
<td>wreck (1)</td>
<td>4:5</td>
</tr>
<tr>
<td>writing (1)</td>
<td>30:4</td>
</tr>
<tr>
<td>years (3)</td>
<td>12:9:15:19:29:8</td>
</tr>
<tr>
<td>yesterday (1)</td>
<td>20:8</td>
</tr>
<tr>
<td>Young (2)</td>
<td>25:14:17</td>
</tr>
<tr>
<td>Z</td>
<td></td>
</tr>
<tr>
<td>zoning (1)</td>
<td>34:8</td>
</tr>
<tr>
<td>wastewater (1)</td>
<td>24:9</td>
</tr>
<tr>
<td>Watershed (2)</td>
<td>20:4:14</td>
</tr>
<tr>
<td>ways (1)</td>
<td>26:16</td>
</tr>
<tr>
<td>web (1)</td>
<td>21:11</td>
</tr>
</tbody>
</table>

Baker Realtime Reporting, Video and Litigation Support
www.BakerRealtime.com
<table>
<thead>
<tr>
<th>Year</th>
<th>Page Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>(1) 8:21</td>
</tr>
<tr>
<td>19th</td>
<td>(1) 3:13</td>
</tr>
<tr>
<td>2007</td>
<td>(1) 22:10</td>
</tr>
<tr>
<td>2010</td>
<td>(1) 7:14</td>
</tr>
<tr>
<td>2011</td>
<td>(1) 11:18</td>
</tr>
<tr>
<td>2015</td>
<td>(1) 24:23</td>
</tr>
<tr>
<td>2016</td>
<td>(3) 3:3, 13, 44:19</td>
</tr>
<tr>
<td>2017</td>
<td>(4) 5:1, 6:13, 7:2, 18</td>
</tr>
<tr>
<td>2020</td>
<td>(1) 14:13</td>
</tr>
<tr>
<td>25,000</td>
<td>(1) 30:20</td>
</tr>
<tr>
<td>335-2</td>
<td>(1) 41:6</td>
</tr>
<tr>
<td>335-2-3-95</td>
<td>(2) 41:9, 42:2</td>
</tr>
<tr>
<td>4</td>
<td>(1) 24:4</td>
</tr>
<tr>
<td>64</td>
<td>(1) 22:20</td>
</tr>
<tr>
<td>96</td>
<td>(1) 25:6</td>
</tr>
</tbody>
</table>
Part B
Attachment Index

Attachment 1 Agenda

Attachment 2 Director’s Slides
   (Agenda Item 2)

Attachment 3 Order to adopt motion to proceed to rulemaking with the proposed amendments
   (Agenda Item 5)
Attachment 1
AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: April 15, 2016
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

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Consideration of minutes of meeting held on February 19, 2016**</td>
<td>2</td>
</tr>
<tr>
<td>2. Report from the ADEM Director</td>
<td>2</td>
</tr>
<tr>
<td>3. Report from the Rulemaking Committee Chair</td>
<td>2</td>
</tr>
<tr>
<td>4. Report from the Commission Chair</td>
<td>2</td>
</tr>
<tr>
<td>5. Consideration of proceeding to rulemaking with proposed amendments to ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda</td>
<td>2</td>
</tr>
<tr>
<td>6. Chevron U.S.A. Inc. v. ADEM, EMC Docket No. 16-02</td>
<td>2</td>
</tr>
<tr>
<td>7. Other business</td>
<td>2</td>
</tr>
<tr>
<td>8. Future business session</td>
<td>2</td>
</tr>
</tbody>
</table>

* 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 FEBRUARY 19, 2016

2. REPORT FROM THE ADEM DIRECTOR

3. REPORT FROM THE RULEMAKING COMMITTEE CHAIR

4. REPORT FROM THE COMMISSION CHAIR

5. CONSIDERATION OF PROCEEDING TO RULEMAKING WITH PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE 335-2, ENVIRONMENTAL MANAGEMENT COMMISSION REGULATIONS, RULE 335-2-3-.05, AGENDA

   The Rulemaking Committee will recommend that the Commission proceed to rulemaking with proposed amendments to ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda. The Commission will consider this recommendation and may vote to proceed to rulemaking with these proposed amendments.

6. CHEVRON U.S.A. INC. V. ADEM, EMC DOCKET NO. 16-02

   The Commission will acknowledge for the record Petitioner Chevron U.S.A. Inc.’s Notice of Voluntary Dismissal as a notice of withdrawal of the request for hearing in the above matter.

7. OTHER BUSINESS

8. FUTURE BUSINESS SESSION
Report on ADEM Environmental Justice Activities

to

Alabama Environmental Management Commission

April 15, 2016
Focus Areas

- History and Definition of Environmental Justice (EJ)
- Designated ADEM Personnel to Coordinate EJ Activities
- Implementing Elements of EPA Plan EJ 2014
- Additional ADEM EJ Initiatives
History and Definition of Environmental Justice (EJ)

- 1994 Presidential Executive Order
- Unlike the Civil Rights Act it is not a law
- State participation is voluntary
- ADEM vigorously engages in EJ activities
Designated ADEM Personnel to Coordinate EJ Activities

- Air, Land, and Water EJ coordinators
- EJ activities overseen by Deputy Director
- Meet with Deputy Director at least twice per month
- Specialized training (e.g. EPA conferences)
Implementing Elements of EPA Plan EJ 2014

- Community Participation in Rulemaking
- Community Engagement in Permitting
- Compliance and Enforcement
Implementing Elements of
EPA Plan EJ 2014

- Promising Community-Based Practices
- Interagency EJ Efforts
- Tools Development
Additional ADEM EJ Initiatives

- Formal EJ Training for ADEM Employees
- Tracking of Environmental Improvements in EJ Areas
- Increased Ranking Weight for Cleanups and Eligibility for Loan Forgiveness in EJ Areas
- Pressing EPA for Infrastructure Funding in EJ Areas
Additional ADEM EJ Initiatives

• Targeted:
  ✓ Assessments
  ✓ Compliance Assistance
  ✓ Environmental Heath Programs
  ✓ Environmental Education Programs
  ✓ Leadership Programs
  ✓ Employment Recruiting
BEFORE THE  
ENVIRONMENTAL MANAGEMENT COMMISSION  
OF THE  
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  

MOTION  

Proceed to rulemaking with the proposed amendments  

ORDER  

This cause having come before the Environmental Management Commission pursuant to the above motion, and the Commission 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 15th day of April 2016.

APPROVED:

Mary Dewitt
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

DISAPPROVED:

[Signature]
Commissioner

[Signature]
Commissioner

ABSTAINED:

[Signature]
Commissioner

[Signature]
Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 15th day of April 2016.

H. Lamar Brown, II, Chair
Environmental Management Commission
Certified this 15th day of April 2016