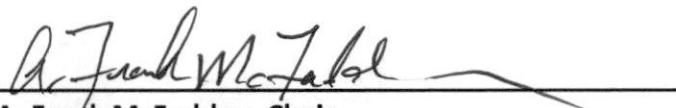


10/16/23

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
August 11, 2023**

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 August 11, 2023.

A handwritten signature in black ink, appearing to read "A. Frank McFadden", is written over a solid horizontal line.

A. Frank McFadden, Chair

Alabama Environmental Management Commission

Certified this 13th day of October 2023.

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
August 11, 2023**

**Convened: 11:00 a.m.
Adjourned: 11:50 a.m.**

Part A

**Transcript
Word Index**

Part B

**Attachment Index
Attachment 1
Attachment 2
Attachment 3**

Part A

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
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MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT Commission

LOCATION: ALABAMA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT (ADEM) BUILDING
ALABAMA ROOM
1400 COLISEUM BOULEVARD
MONTGOMERY, ALABAMA 36110-2400

DATE: AUGUST 11, 2023
TIME: 11:00 A.M.

REPORTED BY: HOLLY M. HYATT, CCR

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 COMMISSIONERS PRESENT:</p> <p>4 Mr. John (Jay) H. Masingill, III, Chair</p> <p>5 Mr. H. Lanier Brown, II, Vice Chair</p> <p>6 Mr. Samuel L Miller, MD</p> <p>7 Mr. Kevin McKinstry</p> <p>8 Ms. Ruby L. Perry, DVM</p> <p>9 Ms. Mary J. Merritt</p> <p>10 Mr. A. Frank McFadden, PE</p> <p>11 ADEM Director: Lance LeFleur</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 Ms. Lindsay Dawson, EMC Legal Counsel.</p> <p>15 Ms. Debi Thomas, EMC Executive Assistant</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>		<p>1 welcome, to everybody who is in this final meeting of</p> <p>2 the Alabama Environmental Management Commission for</p> <p>3 FY23.</p> <p>4 As is our custom, this August report</p> <p>5 will cover the Department's Environmental</p> <p>6 Justice-related activities. The significant American</p> <p>7 Rescue Plan Act and Bipartisan Infrastructure Law</p> <p>8 activities being undertaken by the Department will</p> <p>9 also be covered, as well as the status of the</p> <p>10 long-awaited Mobile Field Office and Laboratory.</p> <p>11 Finally, we will go over the process</p> <p>12 that's been initiated to develop the 2024 update to</p> <p>13 the Commission's and the Department's five-year</p> <p>14 Unified Strategic Plan.</p> <p>15 Environmental Justice is often referred</p> <p>16 to as EJ and has been receiving heightened attention</p> <p>17 from this federal administration. In EPA's</p> <p>18 Five-Year-Strategic Plan, this item is second only in</p> <p>19 priority to climate change and ranks well ahead of</p> <p>20 clean air, clean water, and clean land.</p> <p>21 For many years, the Commission has had</p> <p>22 an ongoing interest in EJ and related activities of</p> <p>23 the Department. It is now part of our regular</p>
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<p>1</p> <p>2 P R O C E E D I N G S</p> <p>3</p> <p>4 CHAIRMAN MASINGILL: Okay. I would</p> <p>5 like to call the meeting of the Alabama Environmental</p> <p>6 Management Commission to order. I acknowledge that</p> <p>7 we have a quorum present.</p> <p>8 Agenda item one is consideration of the</p> <p>9 minutes of the meeting held on June 9th, 2023. I'll</p> <p>10 entertain a motion from the Commission regarding the</p> <p>11 minutes.</p> <p>12 MS. PERRY: I move to adopt the minutes</p> <p>13 of the June 9th, 2023, Commission meeting.</p> <p>14 CHAIRMAN MASINGILL: Is there a second?</p> <p>15 MS. MERRITT: Second.</p> <p>16 CHAIRMAN MASINGILL: All in favor of</p> <p>17 the motion signify by the voting sign.</p> <p>18 (All commissioners responded.)</p> <p>19 CHAIRMAN MASINGILL: Motion is adopted.</p> <p>20 All right. May I have a report from</p> <p>21 the agency director, Mr. LeFleur, on item two?</p> <p>22 MR. LEFLEUR: We have a full house.</p> <p>23 It's good to see. And I want to say good morning,</p>		<p>1 reporting routine to update you on Environmental</p> <p>2 Justice and related activities.</p> <p>3 Each of the last three updates to the</p> <p>4 Commission's and Department's five-year Unified</p> <p>5 Strategic Plan, as well as the 2024 Strategic Plan</p> <p>6 update we have coming, have clear objectives related</p> <p>7 to the fair treatment of and proactive outreach to</p> <p>8 all stakeholders, particularly the minority and</p> <p>9 disadvantaged communities.</p> <p>10 Annual operating plans of the</p> <p>11 Department implement the efforts to achieve these</p> <p>12 objectives. Environmental Justice is related to</p> <p>13 Civil Rights law, diversity, environmental</p> <p>14 regulation, and social justice. All of these fall</p> <p>15 under the heading of fair treatment.</p> <p>16 This slide highlights the major</p> <p>17 milestones in our nation's journey toward ensuring</p> <p>18 fair treatment for all. Title VI of the Civil Rights</p> <p>19 Act of 1964 prohibits the recipients of federal funds</p> <p>20 from engaging in discriminatory treatment of</p> <p>21 individuals based on race, color, or national origin.</p> <p>22 It is the law. ADEM receives federal funds and is</p> <p>23 therefore subject to the law.</p>

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<p>1 In the late 1960s, the movement toward 2 diversity began to take hold as a concept and has 3 developed over the years to encompass the idea of 4 equity and inclusion with a number of initiatives, 5 including at least one presidential executive order 6 related to the federal government executive branch 7 employment. 8 ADEM wholeheartedly embraces the 9 concepts of diversity, equity, and inclusion. On the 10 environmental side of fair treatment, in the 1970s, 11 the Clean Air Act, Clean Water Act, Safe Drinking 12 Water Act, and the Resource Conservation and Recovery 13 Act became laws. 14 The State of Alabama through ADEM has 15 been delegated authority to administer those federal 16 environmental laws under conforming state laws. The 17 formal concept of Environmental Justice came about 18 through a 1994 Presidential Executive Order to 19 address perceived environmental burdens borne by 20 low-income and minority populations. 21 Although presidential executive orders 22 are only binding on certain federal agencies, 23 including EPA, in the executive branch of the federal</p>	<p>1 The second goal is to work with various 2 partners to expand our positive impact within 3 overburdened communities. This involves working with 4 our state government and local governments, federal 5 agencies, primarily EPA, and nongovernmental 6 community organizations. 7 The third goal is to demonstrate 8 progress on significant Environmental Justice 9 challenges with particular emphasis in the areas of 10 lead disparities, drinking-water quality, air 11 quality, and hazardous-waste sites. Measuring actual 12 results is an area where ADEM has been well-out ahead 13 of the EPA. 14 The final goal is the implementation of 15 the federal initiative to direct 40 percent of 16 federal program benefits to disadvantaged 17 communities. 18 That initiative is called Justice40. 19 The federal administration analyzed selected data and 20 developed a map that identifies each of the census 21 tracts deemed disadvantaged for the Justice40 22 initiative. ADEM uses this map to track our 23 Environmental Justice results that you will be seeing</p>
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<p>1 government, ADEM has determined EJ is a worthy 2 concept and voluntarily embraces the EJ 3 fair-treatment goals. 4 It's worth noting that EPA's External 5 Civil Rights Compliance Office audited the 6 Department's civil rights and nondiscrimination 7 program more than any other nondiscrimination program 8 in the nation. I am pleased that each audit 9 determined the program met or surpassed all legal 10 requirements. 11 Today's report will highlight how the 12 Department goes beyond simply complying with the law. 13 It will show that we are going the extra mile to 14 invest in activities to achieve fair treatment for 15 all those in our state. The ADEM Environmental 16 Justice Program continues to incorporate four main 17 goals. 18 First, to deepen EJ practices to 19 improve the health and environment of overburdened 20 communities. This includes engaging those 21 communities in rulemaking, permitting, and compliance 22 issues, as well as employing innovative tools to 23 communicate with all stakeholders.</p>	<p>1 in the upcoming slides. 2 Looking at the ADEM EJ program, we 3 begin by highlighting that ADEM has dedicated the 4 necessary human resources to make our EJ efforts 5 successful. EJ coordinators have been designated in 6 our Air, Land, Water, and Permits and Services 7 Divisions. 8 Because of the importance of this 9 effort, the coordinators' EJ activities are overseen 10 by the deputy director. The deputy director meets 11 with the coordinators regularly to manage activities 12 and assess progress. 13 The personnel assigned to coordinate EJ 14 activities receive the specialized training necessary 15 to be effective in their work. The ongoing training 16 often involves EPA-sponsored programs. We have two 17 of our EJ coordinators in the room with us today. 18 Training is an important step in all 19 that we do. In addition to training our EJ 20 coordinators, we formally train each of our personnel 21 in the basic concepts of fair treatment. 22 We begin with the requirements of the 23 law. Title VI and the Civil Rights Act of 1964. We</p>

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<p>1 are all required to comply with the law, so each 2 employee is trained in the requirements of the law. 3 We utilize an online program initially 4 developed by EPA that is now housed in the 5 Department. A formal diversity training program was 6 implemented in 2020. The program was developed at 7 the University of South Alabama at our request and 8 covers the concepts of diversity, equity, and 9 inclusion. 10 As with Title VI, all personnel are 11 required to complete the video-training program. In 12 addition to training our assigned EJ coordinators, as 13 noted earlier, for more than ten years, the 14 Department has provided in-house formal Environmental 15 Justice training for every member of our staff. 16 As of several years ago, EPA did not 17 have an EJ training program. At ADEM's urging, EPA 18 worked with ADEM to develop a formal EJ training 19 program for EPA. 20 Every ADEM employee is required to 21 complete that training program. EPA is now using the 22 program as a basis for EJ training throughout the 23 nation.</p>	<p>1 stations is up from 68 percent last year. 2 91 percent of our water quality 3 sampling stations are in the Justice40 communities up 4 from 84 percent last year. 5 93 percent of the assessed water bodies 6 is down slightly from 94 percent. 7 96 percent of the water bodies with 8 total maximum daily load limits is up from 90 percent 9 last year. 10 96 percent of the stream miles with 11 TMDLs is up from 94 percent last year. 12 100 percent of the diesel retrofit 13 grants is up from 92 percent, and 100 percent of the 14 non-point source pollution control project awards is 15 up from 98 percent last year. 16 These percentages continue to trend up 17 each year. As data on the slides clearly 18 demonstrates, ADEM far exceeds the 40 percent goal in 19 the Justice40 initiative in those areas where 20 benefits can be measured. 21 In addition to formal EJ training and 22 tracking actual results, the Department also gives 23 extra ranking weight to EJ areas when funding water</p>
Page 11	Page 13
<p>1 The Department also focuses on results. 2 A recent federal objective is to direct at least 3 40 percent of all benefits from federal actions to 4 communities with EJ concerns. 5 As you will see in the following 6 slides, the 12 EJ program metrics ADEM has been 7 tracking for many years have concentrations of 8 between 58 percent and 100 percent in or abutting 9 communities with EJ concerns. 10 Our EJ/Justice40 areas have 58 percent 11 of the air monitoring sites, this versus 56 percent 12 last year. 13 65 percent of the recipients of special 14 compliance assistance for above-ground storage tanks 15 is the same as it was last year. 16 76 percent of the scrap-tire cleanups 17 also is the same as it was last year. 18 77 percent of the brownfields cleaned 19 up is up from 55 percent last year. 20 77 percent of the illegal dump cleanups 21 from the Department's solid-waste fund for innocent 22 landowners is up from 62 percent last year. 23 77 percent of the fish-tissue sampling</p>	<p>1 and sewer projects from the American Rescue Plan Act, 2 Bipartisan Infrastructure Law, and the State 3 Revolving Fund Loan programs that I will report on in 4 a few moments. 5 We give additional weight in Justice40 6 areas to receive extra ranking weight in eligibility 7 for partial principal forgiveness in the drinking 8 water and wastewater state revolving Fund loan 9 programs not associated with the ARPA and BIL 10 programs. 11 Extra ranking weight is given when 12 prioritizing which unauthorized dump sites are to be 13 cleaned up or demonstration projects in our scrap 14 tire, recycling, and other programs, and the 15 Department provides extra ranking weight in the 16 various grant programs administered by the 17 Department. This is just to name a few. 18 The Department has also gone beyond 19 activities that can be measured quantitatively with 20 fair treatment initiatives, such as: Special 21 compliance assistance to local governments in areas 22 with environmental-justice concerns; enhanced 23 marketing of low-interest loans and grants to</p>

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<p>1 drinking water and wastewater systems in 2 disadvantaged communities, targeted health and 3 education initiatives in EJ areas, focused brownfield 4 redevelopment in disadvantaged areas of Alabama; 5 increased community meetings and listening sessions 6 in disadvantaged areas, especially during 7 high-interest permitting activities and direct 8 mailings to every household within a given radius for 9 high-interest activities by the Department in 10 communities with EJ concerns.</p> <p>11 The Department is dedicated to fair 12 treatment and proactive outreach to all stakeholders, 13 especially those in disadvantaged communities. Our 14 goals and activities reflect that dedication.</p> <p>15 Specific personnel are assigned to 16 coordinate EJ activities. All our employees are 17 formally trained in principles of fair treatment. We 18 use metrics to measure actual results, including 19 tracking where the benefits of the federal programs 20 are received. The Department also focuses on 21 qualitative actions that advance fair treatment.</p> <p>22 ADEM fair treatment activities are 23 systematic, focused, and results-oriented. These</p>	<p>1 Alabama and throughout the nation received funds 2 directly from the US Treasury. Alabama state 3 government was allocated \$2.1 billion with one 4 billion available in 2022.</p> <p>5 In February of 2022, the Alabama State 6 Legislature appropriated \$225 million of the first 7 billion dollars of ARPA funds to upgrade public 8 drinking water and wastewater systems in Alabama and 9 assigned ADEM the task of distributing the funds on a 10 needs-based approach.</p> <p>11 In November of 2021, the \$1.2 trillion 12 Bipartisan Infrastructure Law was signed. The 13 allocations under BIL go directly from EPA to the 14 individual state environmental programs over a 15 five-year period. Approximately \$137 million was 16 allocated by the EPA directly to ADEM in 2022.</p> <p>17 In addition to the ARPA and BIL 18 funding, ADEM also has approximately 111 19 million -- had approximately \$111 million in its 20 regular State Revolving Fund loan programs available 21 in 2022 for funding water and sewer upgrades.</p> <p>22 All totaled in 2022, the Department 23 distributed more than \$470 million for funding for</p>
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<p>1 efforts are not mandated by statute or regulation. 2 Copies of a more detailed outline of ADEM's 3 Environmental Justice-related activities along with a 4 reference copy of a compilation of the Department's 5 broader community outreach activities, included in a 6 book entitled "Community Engagement" are available on 7 the table in the lobby for review.</p> <p>8 The booklet is a living document 9 subject to update and input from interested parties. 10 The electronic version of "Community Engagement" is 11 available on the homepage of the Department's 12 website.</p> <p>13 The reason we put the document online 14 is to provide the public a way to hold the Department 15 accountable for its activities to ensure fair 16 treatment for all individuals in Alabama.</p> <p>17 The American Rescue Plan Act, sometimes 18 referred to as ARPA, and the Bipartisan 19 Infrastructure Law, referred to as BIL, are federal 20 programs providing substantial benefits and funds for 21 various purposes.</p> <p>22 ARPA was enacted in March of 2021. It 23 provided \$1.9 trillion. Individual communities in</p>	<p>1 the water and sewer upgrade projects in Alabama. To 2 accomplish this, the Department contacted each of the 3 1,061 public drinking and wastewater systems in 4 Alabama requesting proposed projects for upgrades.</p> <p>5 The more than \$3 billion of proposed 6 projects submitted were each analyzed from an 7 engineering standpoint to assess the physical plant 8 needs. The audited financial statements of each 9 system were also analyzed to determine the financial 10 needs of the individual systems.</p> <p>11 In order to maximize the benefits from 12 the available funding, systems were required to 13 provide a portion of funding for the projects to the 14 degree they are financially able. Each project was 15 ranked based on the engineering and financial need.</p> <p>16 The solicitation, needs-based analysis, 17 ranking, and distribution of such an extraordinarily 18 large amount of funding on a very tight schedule was 19 an extremely challenging task.</p> <p>20 The work was accomplished in a thorough 21 and timely manner that set the standard for the rest 22 of the nation. I'm proud of those in our Permits and 23 Services Division for their truly noteworthy</p>

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<p>1 achievements.</p> <p>2 That was 2022. 2023 is no less</p> <p>3 challenging. In July of 2022, Alabama received the</p> <p>4 remaining \$1.1 billion of its ARPA appropriation. In</p> <p>5 March of '23, the Alabama state legislature</p> <p>6 appropriated an additional \$395 million for ADEM to</p> <p>7 distribute.</p> <p>8 Approximately \$111 million will be made</p> <p>9 available to ADEM in BIL funding from the EPA -- from</p> <p>10 the EPA in 2023 which is the second year of that</p> <p>11 five-year program. The State Revolving Fund program</p> <p>12 will supply an additional \$100 million from water and</p> <p>13 sewer funding which will bring the total 2023 funding</p> <p>14 to about \$606 million, up from the \$473 million in</p> <p>15 2022.</p> <p>16 For the five-year period from 2022</p> <p>17 through 2026, the funding for water and sewer</p> <p>18 upgrades in Alabama distributed by ADEM breaks down</p> <p>19 as follows: \$620 million from the State of Alabama</p> <p>20 provided Alabama Rescue Plan Act allocations, \$728</p> <p>21 million from Bipartisan Infrastructure Law</p> <p>22 allocations through EPA directly to ADEM, and</p> <p>23 \$391 million from the ADEM State Revolving Fund</p>	<p>1 bidding and more red tape before commencing</p> <p>2 construction, this project has been more than a dozen</p> <p>3 years in the making. We are at long last into the</p> <p>4 final weeks of construction. This next group of</p> <p>5 slides will be a ground-level tour of the facility.</p> <p>6 This photo shows what the visitors to</p> <p>7 the building will see from the main entrance off</p> <p>8 Broad Street in Mobile.</p> <p>9 This is a view that shows the curvature</p> <p>10 of the front wall where you can get an idea of how</p> <p>11 the shadow will change throughout the day, which is</p> <p>12 intended to reflect the dynamic nature of the</p> <p>13 atmospheric cycles.</p> <p>14 Here, you see the front from an angle</p> <p>15 showing the windows of the offices on the north side</p> <p>16 of the building and the as-yet unpaved driveway and</p> <p>17 employee parking.</p> <p>18 The workspaces are under construction.</p> <p>19 You can see the Sheetrock work and a glimpse of a</p> <p>20 window in one of the offices. The top half of the</p> <p>21 workspace wall facing onto the hallway will be glass.</p> <p>22 Moving around to the back of the</p> <p>23 building, you see a view of the loading docks and</p>
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<p>1 programs for a grand total of more than \$1.7 billion.</p> <p>2 That's a lot of money that will do a</p> <p>3 lot of good. It also represents a lot of work to</p> <p>4 analyze and prioritize the projects, distribute</p> <p>5 funds, and monitor expenditures.</p> <p>6 As much good as that \$1.7 billion will</p> <p>7 do, it will not satisfy the nearly \$3.3 billion of</p> <p>8 project requests that were submitted to upgrade water</p> <p>9 and sewer systems in Alabama. The passage of the</p> <p>10 Clean Water Act in 1972 prompted substantial</p> <p>11 investments in drinking water and wastewater</p> <p>12 infrastructure.</p> <p>13 Competing priorities have caused</p> <p>14 systems throughout the nation to neglect ongoing</p> <p>15 investments to properly maintain the infrastructure.</p> <p>16 After 50 years, upgrades are needed.</p> <p>17 This is an historic opportunity to</p> <p>18 address those needs, and ADEM is the lead in making</p> <p>19 that happen in Alabama.</p> <p>20 Now, for a report on the status of the</p> <p>21 construction of our new Mobile Field Office and Lab.</p> <p>22 As a result of long delays in funding, due to red</p> <p>23 tape, followed by a conceptual and final design,</p>	<p>1 utility and mechanical yard. And continuing around,</p> <p>2 this is the north side -- excuse me -- the south side</p> <p>3 looking from the back of the building where you can</p> <p>4 see a portion of the driveway that circles the</p> <p>5 building. The windows are a part of the outer wall</p> <p>6 of the laboratory area.</p> <p>7 The lab you see under construction here</p> <p>8 will be state-of-the-art replacing the woefully</p> <p>9 outdated facilities we have been dealing with for</p> <p>10 years at our current location.</p> <p>11 This final slide is an artist's</p> <p>12 rendering of the building where you see the curved</p> <p>13 wall in front, the windows on the south-facing</p> <p>14 offices, and then the smaller curved wall that marks</p> <p>15 the beginning of the laboratory portion of the</p> <p>16 building.</p> <p>17 Completion is expected, mid- to</p> <p>18 late-September followed by furniture delivery and</p> <p>19 move-in during the next one to two weeks.</p> <p>20 Following move-in and shakedown, the</p> <p>21 current Perimeter Road field office property will be</p> <p>22 put out for bid and the lease on the Dolphin Street</p> <p>23 office will be terminated.</p>

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<p>1 A ribbon cutting ceremony with a live 2 tour is in the planning stage. 3 Moving to our final topic, we are now 4 beginning the process for developing the 2024 update 5 to the five-year Unified Strategic Plan. 6 In 2004, the Commission and the 7 Department initiated a process of developing a 8 five-year Unified Strategic Plan. In 2009, 2014, and 9 2019, the five-year plan was updated. 10 Utilizing the Unified Strategic Plan as 11 a guide, each year the Department develops an annual 12 Operation's Plan that is presented to the Commission 13 in the October meeting. As part of that planning 14 process, today you will consider naming an Ad Hoc 15 Committee to work with the Department on the 16 Strategic Plan. 17 We are also seeking input from the 18 public and have placed a notice on the Department's 19 website inviting all interested parties to submit 20 comments and suggestions for 2024 Unified Strategic 21 Plan along with a copy of the 2019 plan for 22 reference. 23 A draft of the proposed final 2024</p>	<p>1 group for how long, Marilyn? 2 MS. ELLIOTT: Jennifer's been on it 3 forever, and Patrice is a year and a half. The last 4 couple of years. 5 MR. LeFLEUR: So it's a priority. 6 Marilyn Elliott, Deputy Director, is 7 the one who meets with these folks regularly. And we 8 see lots of good results from it. 9 MS. PERRY: Thank you. 10 CHAIRMAN MASINGILL: Those are all the 11 questions? 12 Thank you. 13 MR. LeFLEUR: Thank you. 14 CHAIRMAN MASINGILL: Item three on the 15 agenda is a report from the Commission Chair, and I 16 have no report. 17 Moving on to item four regarding the 18 establishment of the Strategic Planning Ad Hoc 19 Committee that Mr. LeFleur just referred to. The 20 Commission will consider the establishment of 21 Strategic Planning Ad Hoc Committee consisting of 22 three Commission members to serve as a work group 23 with ADEM for the 2024 update to the 2019 AEMC-ADEM</p>
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<p>1 Unified Strategic Plan incorporating input from the 2 ad hoc committee, the public, and the Department will 3 be provided to members of the Commission at the 4 October Commission meeting when the Department's 5 Operation's Plan will be presented. 6 The 2024 Unified Strategic Plan will 7 then be presented for final Commission approval at 8 the December Commission meeting. That concludes 9 today's report. I'll be pleased to answer any 10 questions you may have. 11 MS. PERRY: Yes. And thank you, 12 Mr. LeFleur, for your help. 13 I'm glad to hear that there's evidence 14 of making Environmental Justice and awareness not 15 only to the public, but also evidence of progress and 16 outcomes. You noted that there were two EJ 17 coordinators. Would you please identify those 18 persons again for us? 19 MR. LeFLEUR: Would you two please 20 stand? And introduce yourselves. 21 MS. McCORD: Jennifer McCord. 22 MS. LAMAR: Patrice Lamar. 23 MR. LeFLEUR: They have been on the</p>	<p>1 Unified Strategic Plan. 2 A list of nominations for the Strategic 3 Planning Ad Hoc Committee were circulated to the 4 Commission members. I'll entertain motion from the 5 Commission regarding those nominations, which include 6 the following: Kevin McKinstry, Chair; Frank 7 McFadden will also serve on the Committee, and then I 8 will serve on the Committee. 9 Do I have a motion? 10 MR. MILLER: Move to establish 11 Commission Strategic Planning Ad Hoc Committee and 12 the nominations to said Committee as cited by the 13 Chair. 14 MS. PERRY: Second. 15 CHAIRMAN MASINGILL: Any discussion? 16 I'll call for the question. 17 All in favor of the motion, signify by 18 raising your right hand. 19 All opposed? 20 Motion carries. 21 MS. THOMAS: Okay. We do have an 22 order. 23 CHAIRMAN MASINGILL: Brings us to item</p>

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<p>1 five on the agenda. Item five is the Denali Water 2 Solutions, LLC, Petitioner, versus, ADEM, Respondent, 3 EMC Docket Number 22-03. I note that item five is an 4 acknowledgment for the record of Petitioner Denali 5 Water Solution, LLC's, withdrawal of its request for 6 a hearing.</p> <p>7 I note that on May 4th, 2022, 8 Petitioner Denali Water Solutions, LLC, filed with 9 the Commission for request for hearing regarding ADEM 10 Administrative Cease and Desist Order Number 11 22-070-SW issued on April the 15th, 2022, to Denali 12 Water Solutions, LLC, 3308 Bernice Avenue, 13 Russellville, Arkansas, operating under ADEM 14 registration numbers: BUD0000-00574-21, and 15 BUG0000-0054570-22 to cease and desist storage and 16 land application of by-product materials at Hidden 17 Valley Farms at 107 Hidden Valley Road, Falkville, 18 Alabama, 35622.</p> <p>19 A consent order between the Petitioner 20 and ADEM has resolved the matters before the 21 Commission.</p> <p>22 On July 28th, 2023, the Petitioner 23 filed with the Commission a notice of withdrawal of</p>	<p>1 behalf of Mobile Baykeeper to address the EPA's 2 recently issued proposed denial of ADEM's Coal Ash 3 Program.</p> <p>4 I want to consider a study to 5 understand why this action by the EPA is important to 6 protect Alabama citizens and waters. Right now, 7 Alabama Power is working to close their plant-buried 8 coal-ash pond on the banks of the Mobile River just 9 20 miles north of Mobile Bay in Mobile, Alabama.</p> <p>10 They have a permit issued by ADEM to 11 conduct this closure. Now, federal and state 12 regulations both require that coal-ash closure 13 minimize, eliminate, or control to the maximum extent 14 feasible postclosure infiltration of liquids into the 15 waste.</p> <p>16 However, in issuing a notice of 17 potential violation to Alabama Power for their 18 plant-buried coal ash plan, in March of this year, 19 EPA notes that approximately 5 million cubic yards of 20 coal ash, that's more than the volume of Bryant-Denny 21 Stadium, will remain in contact with groundwater 22 postclosure.</p> <p>23 Some of this ash will be as deep as</p>
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<p>1 appeal withdrawing its request for a hearing.</p> <p>2 All right. Brings us to item six. Is 3 there any other business any of the Commissioners 4 have?</p> <p>5 Seeing none.</p> <p>6 Item seven, future business sessions. 7 The next Commission meeting is scheduled for 8 October 13th, 2023. Were all Commissioners planning 9 to be here?</p> <p>10 Commission: Yes.</p> <p>11 CHAIRMAN MASINGILL: That's the plan 12 for now.</p> <p>13 All right. That brings us to the 14 public-comment period. And today, I think we have 15 four people that want to address the Commission. I 16 would encourage you to state your name, your 17 organization, or just if you're, you know, private 18 citizen, and limit your comments to three minutes.</p> <p>19 The first I have on the list is Cade 20 Kistler.</p> <p>21 MR. KISTLER: Members of the 22 Environmental Management Commission, thank you for 23 your time. My name is Cade Kistler, and I'm here on</p>	<p>1 two-and-a-half feet below sea level. And the EPA 2 goes on to state in that potential violation notice 3 that significant volumes of saturated coal ash will 4 persist post-closure as groundwater will continue to 5 flow into and out of the unlined ash pond in 6 perpetuity, thus ensuring that the ash pond will 7 continue releasing coal ash contaminants 8 indefinitely.</p> <p>9 Additionally, Alabama Power's emergency 10 action plan does not include analysis of river 11 flooding or coastal flood events in that emergency 12 action plan. And that omission is also a violation 13 of the CCR rule and poses risk to our waterways and 14 the folks that use those waterways downstream in the 15 Delta and Mobile Bay.</p> <p>16 Those are just two of numerous 17 deficiencies noted with the permitted plant bury. 18 Obviously, I don't have time in this three minutes to 19 go through that full notes of potential violation, 20 but similar issues exist at sites across the state 21 where coal-ash closure is being conducted and has 22 been permitted.</p> <p>23 And I know in a setting like this one,</p>

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<p>1 these kind of violations can seem academic, seen 2 technical, but this coal-ash pollution is leaking 3 into a vast expanse of unspoiled swamps and bayous 4 and coursing rivers. This is North America's Amazon, 5 as it's commonly known, and Mobile-Tensaw Delta. 6 The coal-ash pond and its toxic 7 contents loom over Mobile Bay. So this issue has, 8 you know, serious implications for Alabamians who 9 enjoy and live near and in coastal Alabama's 10 waterways and near and downstream of coal ash sites 11 throughout the state. 12 Meanwhile, neighboring states' 13 utilities are moving away from risky closure of 14 unlined ash ponds on the banks of rivers. Alabama 15 deserves the same prudent safeguards. 16 The fact that ADEM allowed this permit, 17 and numerous permits like it with serious 18 recognizable technical and legal failings to go 19 forward is deeply concerning. Looking at the facts 20 as they are, it seems abundantly evident that Alabama 21 Power's plan to close the ash pond in place was and 22 is in direct contradiction of the relevant state and 23 federal rules for coal ash closure.</p>	<p>1 go hand in hand. Careful coal-ash management is an 2 important step toward that vision. 3 Thank you for your time. 4 CHAIRMAN MASINGILL: Thank you. 5 Justinn Overton. 6 MS. OVERTON: Good morning, all. It's 7 nice to see you again. I'm not gonna be talking 8 about fish consumption advisories today, but if you 9 want me to, I'll stay after. 10 So my name is Justinn Overton. I'm the 11 executive director and staff riverkeeper at Coosa 12 Riverkeeper. I'm here today speaking for over 3500 13 dues-paying members who love the Coosa River for its 14 recreational value, but also rely on the Coosa River 15 for its drinking water. 16 The very first coal-ash pond in this 17 state was the Gadsden coal-ash pond that was to be 18 closed on Neely Henry Lake. Compared to some of the 19 other facilities, it is a very small pond, but it's 20 important to note that it was not just the first one, 21 but is the closest to a drinking water intake. 22 It is just over half a mile upstream 23 from the drinking water intake for a major</p>
<p>1 Something that was noted in comments by 2 the overwhelming opposition to the permit, and yet 3 the Department issued a permit anyway. And that begs 4 the question: Why would the Department issue a 5 permit in direct opposition to their own rules? 6 That's a question that concerns 7 Alabamians who depend on this department to protect 8 the health of their environment, and in many 9 respects, the health of their families, and it's a 10 question that I hope's important to this Commission 11 to evaluate. 12 In closing, I'm sincerely hopeful that 13 this Commission will direct the Department to 14 collaborate with the EPA to ensure our state's 15 coal-ash program protects our waterways and people. 16 I appreciate the hard work the 17 Department is doing, looking at things like stopping 18 sludge being sprayed on fields and giving funds to 19 wastewater utilities that need it to clean up their 20 work. 21 This is another area where the 22 Department can continue our shared goal of Alabama 23 where economic well-being and ecological protection</p>	<p>1 metropolitan area within my watershed, the city of 2 Gadsden. 3 So I'm here today to speak on behalf of 4 the people that probably boat by that coal-ash pond 5 and have no idea the dangers that are within the 6 waterways that they love, within the property that 7 they've invested in, as well as for their health. 8 The EPA's denial of Alabama's coal-ash 9 program is not a surprise to those of us that have 10 been begging for the attention of the Commission as 11 well as the attention of ADEM for our concerns. And 12 the concerns are pretty practical. 13 They are coal ash is sitting in 14 groundwater, and it's leaking. Alabama Power's 15 self-reported data is showing as such, and ADEM did 16 fine Alabama Power for that, and that administrative 17 fine was \$250,000 per pond. When you look at Alabama 18 Power's bottom line, that is barely a drop in the 19 bucket. 20 So I just wanted to be here today to 21 express my gratitude for EPA coming in and in this 22 proposed denial because it is really underscoring the 23 concerns from our members as well as from the</p>

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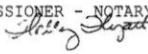
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<p style="text-align: right;">Page 34</p> <p>1 community at-large.</p> <p>2 You know, when we're talking about fair</p> <p>3 and equal treatment today, the people that rely on</p> <p>4 our waterways deserve fair and equal treatment. And</p> <p>5 it seems like consistently, this Department puts the</p> <p>6 permit holder over the people.</p> <p>7 And so I hope that y'all will stay</p> <p>8 aware and stay tuned for these upcoming hearings</p> <p>9 because they are vital to protecting the waterways</p> <p>10 that are not just economic drivers for this state,</p> <p>11 but that are also vitally important for public</p> <p>12 health.</p> <p>13 Thank you for the opportunity to</p> <p>14 comment.</p> <p>15 CHAIRMAN MASINGILL: Thank you.</p> <p>16 E.L. McCarty, III.</p> <p>17 MR. McCARTY: Good morning,</p> <p>18 Mr. Chairman.</p> <p>19 CHAIRMAN MASINGILL: Good morning.</p> <p>20 MR. McCARTY: Good morning, Commission.</p> <p>21 I bring you greetings from Wilsonville, Alabama, a</p> <p>22 pretty little town on the west bank of the Coosa</p> <p>23 River that also unfortunately houses 24 million tons</p>	<p style="text-align: right;">Page 36</p> <p>1 Department of Environmental Monitoring, because you</p> <p>2 just monitored, you just watched, and did nothing.</p> <p>3 But now, if you're adopting rules and</p> <p>4 regs that are less than what's required by law,</p> <p>5 you're slipping down into becoming the Alabama</p> <p>6 Department of Environmental Mismanagement, maybe even</p> <p>7 the Alabama Department of Environmental Mendacity.</p> <p>8 We all -- everybody in this room knows</p> <p>9 that capping an unlined coal-ash pond that sits in</p> <p>10 the water table is not going to fix the problem.</p> <p>11 Now, if I had a bad cut on the bottom</p> <p>12 of my arm and I went to the emergency room and the</p> <p>13 doctor put a nice little bandage on the top of my</p> <p>14 arm, everybody would say, well, that's the stupidest</p> <p>15 thing I've ever heard of. It's the same thing here.</p> <p>16 You know, sometimes if you turn your</p> <p>17 homework in late, a teacher might give you partial</p> <p>18 credit. There are tens of thousands of Alabamians</p> <p>19 that would give you a great deal of credit if you</p> <p>20 would now take the initiative again -- a word</p> <p>21 Mr. LeFleur used -- the initiative to solve this</p> <p>22 problem correctly and adhere to the EPA regs.</p> <p>23 The new sheriff's in town. They might</p>
<p style="text-align: right;">Page 35</p> <p>1 of toxic coal ash.</p> <p>2 Now, I've been here before and spoken</p> <p>3 before, and not much has changed. I think I</p> <p>4 recognize all the faces. Mr. LeFleur is still here,</p> <p>5 and I see y'all are still promulgating this asinine</p> <p>6 idea that cap-in-place on unlined coal-ash pond</p> <p>7 actually works.</p> <p>8 I've asked the question numerous times</p> <p>9 show me one example anywhere in the world where an</p> <p>10 unlined coal-ash pond can be fixed by covering it up.</p> <p>11 It's asinine and ridiculous and preposterous, and I</p> <p>12 guess y'all are doing this because Alabama Power is</p> <p>13 telling y'all to. There's no good reason.</p> <p>14 Maybe cost, but Alabama Power actually</p> <p>15 raised rates a few years ago to cover these coal-ash</p> <p>16 costs. Mr. LeFleur was talking about meeting and</p> <p>17 exceeding things and the regs of the EJ, you're not</p> <p>18 doing that here. You've missed it badly. Okay.</p> <p>19 I used to -- when the numbers started</p> <p>20 coming out of the wells around the pond in</p> <p>21 Wilsonville, we had some MCLs that were 2,000 percent</p> <p>22 of what was allowed, and y'all sat here and did</p> <p>23 nothing. I referred to you then as the Alabama</p>	<p style="text-align: right;">Page 37</p> <p>1 enforce them for you if you don't.</p> <p>2 Thank you.</p> <p>3 MR. MILLER: Question.</p> <p>4 MR. McCARTY: Yes.</p> <p>5 MR. MILLER: Don't the EPA regs allow</p> <p>6 for cap-in-place?</p> <p>7 MR. McCARTY: If it works.</p> <p>8 MR. MILLER: That's for anything.</p> <p>9 MR. McCARTY: But it doesn't work. I</p> <p>10 keep asking that question. That question just kind</p> <p>11 of perplexes me, and everybody kind of gives me a</p> <p>12 blank stare on that particular question. But it has</p> <p>13 failed in Gadsden. Not the Gaston plant in</p> <p>14 Wilsonville. But that's the local example.</p> <p>15 I mean, everybody else has figured</p> <p>16 you've gotta dig it up. There is not a single</p> <p>17 solitary example that I know of where cap-in-place</p> <p>18 has worked in an unlined pond.</p> <p>19 It probably would work, in my humble</p> <p>20 opinion, not being an engineer, on a lined pond, but</p> <p>21 I just don't see any chance for it to work nor do I</p> <p>22 see any evidence that it has ever worked.</p> <p>23 Any other questions, comments?</p>

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1 I'd love to stand here and have a
2 debate about it if y'all were willing.
3 CHAIRMAN MASINGILL: Thank you.
4 Mr. Mike Mullen.
5 MR. MULLEN: I defer. Different issue,
6 different time.
7 CHAIRMAN MASINGILL: Okay. That
8 concludes the public-comment period.
9 I'll entertain a motion to adjourn.
10 MS. PERRY: Move to adjourn.
11 MR. MCKINSTRY: Second.
12 CHAIRMAN MASINGILL: All in favor of
13 adjourned, say aye.
14 Commission: Aye.
15
16 (Proceeding concluded at 11:50 a.m.)
17
18
19
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21
22
23

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1 C E R T I F I C A T E
2
3 STATE OF ALABAMA)
4 CALHOUN COUNTY)
5
6 I hereby certify that the above proceedings
7 were taken down by me and transcribed by me using
8 computer-aided transcription, and that the above is a
9 true and correct transcript of the said proceedings
10 given by said witness.
11 I further certify that I am neither of
12 counsel nor of kin to the parties to the action, nor
13 am I in anywise interested in the result of said
14 cause.
15 I further certify that I am duly licensed
16 by the Alabama Board of Court Reporting as a
17 Certified Court Reporter as evidenced by the ACCR
18 number found below.
19 COMMISSIONER - NOTARY PUBLIC
20 
22 Holly M. Hyatt, CCR
23 ACCR #646 - Exp. 9/30/2023
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Meeting on 08/11/2023

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ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

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ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

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Part B

Attachment Index

Attachment 1 Agenda

**Attachment 2 Director's Slides
(Agenda Item 2)**

**Attachment 3 Order to establish a Commission Strategic Planning Ad Hoc Committee and
accept the nominations to this committee as cited by the Commission Chair
(Agenda Item 4)**

Attachment 1

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: August 11, 2023

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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3. Report from the Commission Chair	2
4. Establishment of a Strategic Planning Ad Hoc Committee	2
5. <u>Denali Water Solutions, LLC, Petitioner v. ADEM, Respondent</u> EMC Docket No. 22-03	2
6. Other business	2
7. Future business session	2
PUBLIC COMMENT PERIOD	3
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* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission.

** The Minutes for this meeting will be available on the ADEM website under Environmental Management Commission.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON JUNE 9, 2023
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. ESTABLISHMENT OF A STRATEGIC PLANNING AD HOC COMMITTEE

The Commission will consider the establishment of a Strategic Planning Ad Hoc Committee, consisting of three Commission members, to serve as a work group with ADEM for the 2024 updates to the 2019 AEMC-ADEM Unified Strategic Plan.

5. DENALI WATER SOLUTIONS, LLC V. ADEM, EMC DOCKET NO. 22-03

The Commission will acknowledge for the record Petitioner Denali Water Solutions, LLC's withdrawal of its request for hearing in the above matter.

On May 4, 2022, the Petitioner filed with the Commission a request for hearing regarding ADEM Administrative Cease and Desist Order No. 22-070-SW issued on April 15, 2022, to Denali Water Solutions, LLC, 3308 Bernice Avenue, Russellville, Arkansas 72802, operating under ADEM Registration Numbers BUD0000-0054574-21 and BUG0000-00545870-21, to cease and desist storage and land application of by-product materials at the Hidden Valley Farm, at 107 Hidden Valley Road, Falkville, Alabama 35622. A consent order between the Petitioner and ADEM has resolved the matters before the Commission. On July 28, 2023, the Petitioner filed with the Commission a Notice of Withdrawal of Appeal, withdrawing its request for hearing.

6. OTHER BUSINESS
7. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

Members of the public that wish to make a brief statement at a Commission meeting may do so by first signing in on a register maintained by the Commission office prior to each regularly scheduled meeting. The register will close ten minutes prior to convening each meeting of the Commission. Following completion of all agenda items, the Commission Chair will call on members of the public wishing to make a statement in the order their names appear on the register. Speakers are encouraged to limit their statement to matters that directly relate to the Commission's functions. Speakers will be asked to observe a three minute time limit. While an effort will be made to hear all members of the public signed on the register, the Commission may place reasonable limitations on the number of speakers to be heard. (Guideline 11, Guidelines for Public Comment).

The Guidelines for Public Comment are used in the application of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda and Public Participation. The Guidelines for Public Comment serve to educate and inform the public as to how the Commission interprets and intends to apply the Rule. The revised Rule 335-2-3-.05 was effective October 7, 2016.

Attachment 2

ENVIRONMENTAL JUSTICE – FAIR TREATMENT

History of “Fair Treatment”

- 1964 Civil Rights Act Title VI - law
- 1968 Diversity, Equity, Inclusion - initiatives
- 1970s CAA, CWA, SDWA, RCRA - laws
- 1994 Presidential Environmental Justice - EO



Alabama Department Of Environmental Management

ADEM Environmental Justice Goals

- Deepen EJ Practices
- Work with Partners
- Demonstrate Progress
- Meet Federal Justice40 Objectives



Alabama Department Of Environmental Management

Designated ADEM Personnel to Coordinate EJ Activities

- Department-wide EJ coordinators
- EJ activities overseen by Deputy Director
- Meet with Deputy Director at least twice per month
- Specialized training (e.g. EPA conferences)



Alabama Department Of Environmental Management

Training ADEM Personnel

- Title VI of the Civil Rights Act of 1964
- Diversity, Equity, Inclusion
- Environmental Justice
 - In-house
 - EPA



Alabama Department Of Environmental Management

Tracking Fair Treatment Results

- 58% of air monitoring sites
- 65% of special compliance assistance AST
- 76% of illegal scrap tire cleanups
- 77% of brownfields cleaned up
- 77% of illegal dump cleanups from SWF
- 77% of fish tissue sampling stations

Tracking Fair Treatment Results

- 91% of water quality sampling stations
- 93% of assessed waterbodies
- 96% of waterbodies with TMDLs
- 96% of stream miles with TMDLs
- 100% of diesel retrofit grants
- 100% of non-point source project awards

Increased Ranking Weight

- ARPA / BIL / SRF
- State Revolving Fund loan forgiveness
- Cleanup priorities
- Demonstration projects
- Grant programs



**Alabama Department Of
Environmental Management**

Additional ADEM EJ Initiatives

- Local Government compliance assistance
- Low interest Water & Sewer loans
- Health and Education initiatives
- Brownfield redevelopment assistance
- Increased community meetings
- Direct mail to each household



**Alabama Department Of
Environmental Management**

**ALABAMA WATER AND SEWER
FUNDING**



**Alabama Department Of
Environmental Management**

Alabama Water and Sewer Funding

FY 2022:

225 Mil\$ American Rescue Plan Act

137 Mil\$ Bipartisan Infrastructure Law

111 Mil\$ State Revolving Fund

473 Mil\$ TOTAL



**Alabama Department Of
Environmental Management**

Alabama Water and Sewer Funding

FY 2023:

395 Mil\$ American Rescue Plan Act

111 Mil\$ Bipartisan Infrastructure Law

100 Mil\$ State Revolving Fund

606 Mil\$ TOTAL



**Alabama Department Of
Environmental Management**

Alabama Water and Sewer Funding

FY 2022-2026 estimated:

620 Mil\$ American Rescue Plan Act

728 Mil\$ Bipartisan Infrastructure Law

391 Mil\$ State Revolving Fund

1,739 Mil\$ TOTAL



**Alabama Department Of
Environmental Management**

Alabama Water and Sewer Funding

FY 2022-2026 estimated:

620 Mil\$ American Rescue Plan Act

728 Mil\$ Bipartisan Infrastructure Law

391 Mil\$ State Revolving Fund

1,739 Mil\$ TOTAL

Project requests = 3,292 Mil\$

ADEM

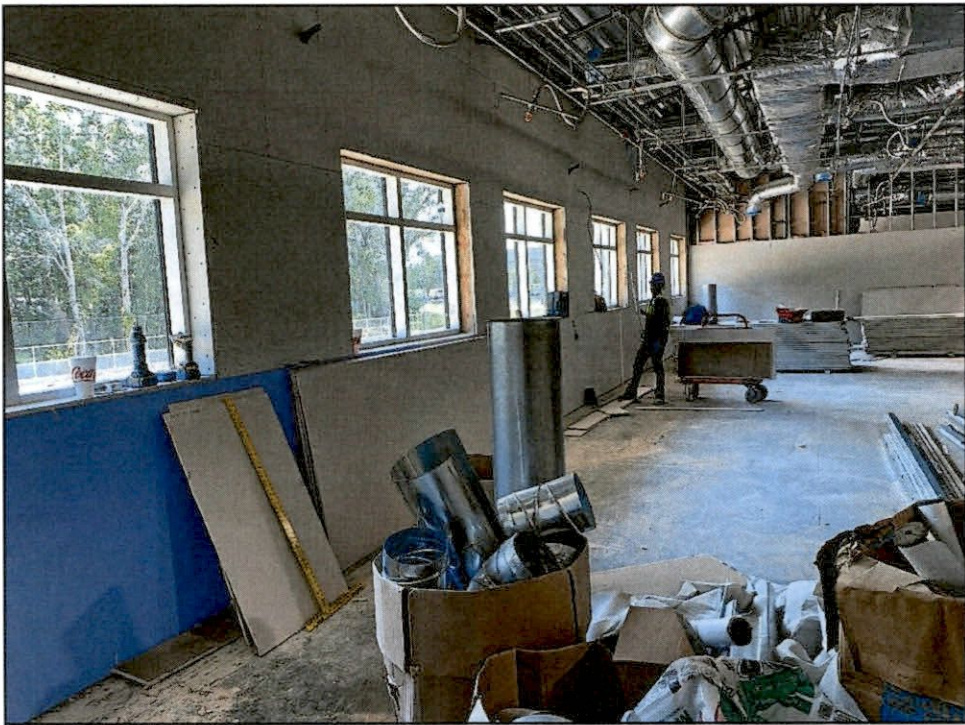
**Alabama Department Of
Environmental Management**

**MOBILE FIELD OFFICE AND
LABORATORY**











Attachment 3

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Establish a Commission Strategic Planning Ad Hoc Committee and
accept the nominations to this committee as cited by the Commission Chair

ORDER


This cause having come before the 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 a Strategic Planning Ad Hoc Committee to serve as a work group with ADEM for the 2024 updates to the 2019 AEMC-ADEM Unified Strategic Plan is hereby established; and
3. That the nominations to the Strategic Planning Ad Hoc Committee shown in the attached list are hereby accepted; and
4. That this action has been taken and this order shall be deemed rendered effective as of the date shown below.


Alabama Environmental Management Commission Order
Page 2

ISSUED this 11th day of August 2023.


APPROVED:



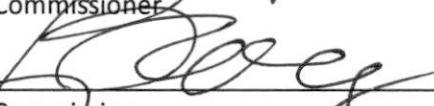
Commissioner



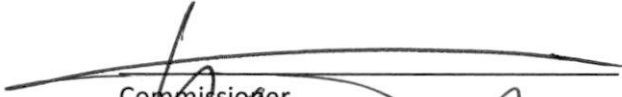
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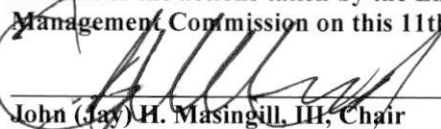
DISAPPROVED:

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 11th day of August 2023.



John (Jay) H. Masingill, III, Chair
Environmental Management Commission
Certified this 11th day of August 2023

8/11/23

**Alabama Environmental Management
Commission 2023 Ad Hoc Committee**

Strategic Planning Ad Hoc Committee

Chair: Kevin McKinstry

Members: Frank McFadden

Jay Masingill