

Amended 8/14/09

AGENDA\*  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION MEETING  
Alabama Department of Environmental Management (ADEM) Building  
Alabama Room (Main Hearing Room)  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059  
Friday, August 21, 2009  
11:00 a.m.

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\* The Agenda for this meeting will be available on the ADEM website,  
[www.adem.alabama.gov](http://www.adem.alabama.gov), under EMC Information and Calendar of Events.

\*\* The Minutes for this meeting will be available on the ADEM website  
under EMC Information.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON JUNE 19, 2009

2. ELECTION

The Commission will hold an election of Personnel Committee members.

3. REPORT FROM THE DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

Included in the report from the Commission Chair will be the following:

- A. Discussion of Greenhouse Gas Emissions – The Commission will discuss greenhouse gas emissions and various stances taken on the impact that reductions of said emissions will make and consider taking a formal stance on the issue.
- B. Discussion of proposal for the ADEM Operating Plan for a methodology to quantify compliance rates for major ADEM programs - The Commission will discuss and consider the Director’s proposal for the ADEM Operating Plan for a methodology to quantify compliance rates for major ADEM programs.

5. CANAAN SYSTEMS, INC. V. ADEM, EMC DOCKET NO. 09-06

The Commission will consider Respondent ADEM’s “Amended Motion to Sever and Stay” (dated July 23, 2009); the “Petitioner’s Response in Opposition to Respondent’s Motion to Sever and Stay” (dated July 28, 2009); the “Petitioner’s Supplemental Response in Opposition to Respondent’s Motion to Sever and Stay” (dated August 6, 2009); the “Petitioner’s Request for Oral Argument” (dated August 10, 2009); and the “Amendment to ADEM’s Reply Brief to Petitioner’s Opposition to ADEM’s Motion to Sever and Stay” (dated August 12, 2009).

The ADEM administrative actions appealed under Docket No. 09-06 are ADEM’s denial of Class V injection well permits to Canaan Systems, Inc. for The Cottages of Bethune Lake Subdivision, The Water’s Edge Subdivision, and Lawrence Landing Subdivision.

6. RUSSELL D. LIPPERT, LIPPERT BANK SERVICES, L.L.C. V. ADEM, AND SANTEK ENVIRONMENTAL OF ALABAMA, L.L.C., EMC DOCKET NO. 09-05

The Commission will consider the Hearing Officer's "Order on Motion for Summary Judgment" (dated July 6, 2009), which is construed as the Hearing Officer's recommendations to the Commission to grant the Intervenor's Motion for Summary Judgment and dismiss with prejudice the Request for Hearing filed by Russell D. Lippert. The Commission will also consider the "Order on Motions to Dismiss" (dated May 19, 2009) for incorporation in a final order on the Hearing Officer's recommendations. The May 19th "Order on Motions to Dismiss" was a preliminary order by the Hearing Officer dismissing the Requests for Hearing by Lippert Bank Services, L.L.C. and Jennifer J. Lippert.

The administrative action appealed under Docket No. 09-05 is ADEM's approval of the modification of the permit for Mt. Olive Landfill located on Mary Buckelew Drive in Jefferson County, Alabama.

7. FRIENDS OF HURRICANE CREEK AND JOHN WATHEN V. ADEM, AND SDW, INC., EMC DOCKET NO. 09-02 (NPDES-RELATED MATTER)

The Commission will consider the "Recommendation of Hearing Officer" (dated July 27, 2009); the "Intervenor's Response (Objections and/or Comments to Hearing Officer's Recommendation" (dated August 4, 2009); "ADEM's Objection to the Hearing Officer's Recommendation and Proposed Alternate Findings of Fact and Conclusions of Law" and Proposed Orders (dated August 6, 2009); the Petitioners' Request for Oral Argument, "Objections to Hearing Officer's Recommendation and Supporting Brief," "Alternative Findings of Fact and Conclusions of Law and Discretion," and Proposed Order (dated August 7, 2009); and the "Intervenor's Replies to Objections" (dated August 11, 2009).

The administrative action appealed under Docket No. 09-02 is ADEM Administrative Order 08-203-MNPS issued on September 5, 2008, to SDW, Inc., Williamsburg Subdivision, Cottdale, Tuscaloosa County, NPDES ALR165846.

8. BLACK WARRIOR RIVERKEEPER, INC. V. ADEM, AND SHEPHERD BEND, L.L.C., EMC DOCKET NO. 09-04 (NPDES-RELATED MATTER)

The Commission will consider the Intervenor's motion to table consideration of the Hearing Officer's Recommended Findings of Fact and Conclusions of Law until the next scheduled meeting of the Commission.

The ADEM administrative action appealed under Docket No. 09-04 is ADEM's issuance of NPDES Permit AL0079163 on July 21, 2008, to Shepherd Bend, L.L.C., Shepherd Bend Mine, Walker County.

9. OTHER BUSINESS
10. FUTURE BUSINESS SESSION

**PUBLIC COMMENT PERIOD**

(The requests from the public to address the Commission are attached to the agenda.)

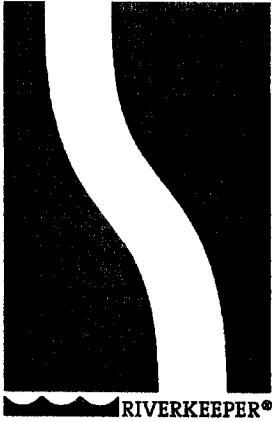
Request 1

Michael William Mullen, Choctawhatchee Riverkeeper  
SUBJECT: ADEM's general lack of effectiveness  
on construction stormwater compliance enforcement

Request 2

David A. Ludder, on behalf of the ADEM Reform Coalition  
SUBJECT: Compliance and enforcement in the  
Alabama NPDES (Water Pollution Control) Program

**CHOCTAWHATCHEE**



Laurel G. Gardner, D.V.M., Chair  
Alabama Environmental Management Commission  
c/o Debbie Thomas  
P.O. Box 301463  
Montgomery, AL 36130-1463

July 23, 2009



Dear Commissioner Gardner:

By this letter I request an audience before the AEMC at its August 21, 2009 meeting for the purpose of presenting examples of failure to enforce that illustrate a general failure by the Alabama Department of Environmental Management (ADEM) to take adequate measures to obtain compliance and prevent unnecessary runoff of sediment and turbid water from construction sites that hold ADEM permits.

My presentation (a set of handout pages is enclosed) includes slides that show how permit violations continued for months after ADEM received citizen complaints at two Troy construction sites. Citizen complaints were filed repeatedly for these sites after just about every significant precipitation event. Despite the offsite pollution that was occurring ADEM either did not take action or did not take action sufficient to cause permit holders to bring sites into compliance. Despite this no orders apparently were ever issued for these out-of-compliance sites or those orders were not executed.

This situation is not limited to these two examples. Most construction sites that I have observed in SE Alabama and elsewhere in Alabama over the last dozen or so years have been in not compliance with construction stormwater regulations. Most of those have had avoidable offsite transport of pollutants.

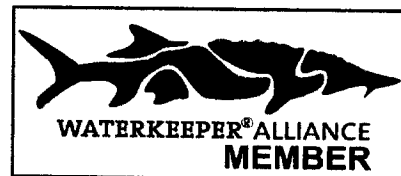
The Department's compliance enforcement program for the construction stormwater permit program is broken. If anything, response to citizen complaints is worse now than before the numerous re-organizations that have taken place over the last few years. It appears that there are even fewer enforcement actions than before and it appears that fewer penalties are being levied.

The last part of my presentation includes a handful of recommendations for making compliance enforcement more effective for the construction stormwater permit program.

Sincerely,

Michael William Mullen, CPESC  
Choctawhatchee Riverkeeper/Executive Director

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August 7, 2009

**Delivered via Facsimile**

(334) 279-3052

Ms. Laurel Gardner, Chair

Alabama Environmental Management Commission

P.O. Box 301463

Montgomery, Alabama 36130-1463

**Re: Request to address Commission at August 21, 2009 meeting**

Dear Ms. Gardner:

On behalf of the ADEM Reform Coalition, I request the opportunity to address the Environmental Management Commission during the public comment period following the August 21, 2009 meeting of the Commission.

The topic of my remarks will be Compliance and Enforcement in the Alabama NPDES Program. By electronic mail sent to Debi Thomas, I am submitting a draft copy of material I intend to present. If changes are made before August 21, I will submit those.

Sincerely,

A handwritten signature in cursive script that reads "David A. Ludder".

DAVID A. LUDDER

