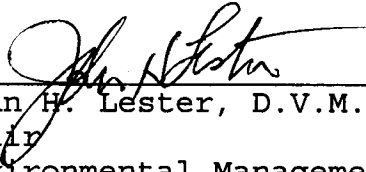


**12/9/11**

**Minutes  
Environmental Management Commission Meeting  
Alabama Department of Environmental Management Building  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2400  
October 21, 2011**



This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on October 21, 2011.



---

John H. Lester, D.V.M.  
Chair  
Environmental Management Commission

Certified this 9th day of December 2011.



**Minutes**  
**Environmental Management Commission Meeting**  
**Alabama Department of Environmental Management Building**  
**1400 Coliseum Boulevard**  
**Montgomery, Alabama 36110-2400**  
**October 21, 2011**

**Convened: 11:00 a.m.**  
**Adjourned: 11:30 a.m.**

**Part A**

**Transcript**

**Part B**

**Attachment Index**

**Attachments 1 – 4**





**Part A**





Page 1

1 ALABAMA ENVIRONMENTAL MANAGEMENT  
2 COMMISSION MEETING  
3  
4  
5  
6 ALABAMA DEPARTMENT OF ENVIRONMENTAL  
7 MANAGEMENT (ADEM) BUILDING  
8  
9 MAIN CONFERENCE ROOM  
10 1400 COLISEUM BOULEVARD  
11 MONTGOMERY, ALABAMA  
12  
13  
14  
15 OCTOBER 21, 2011  
16 11:00 A.M.  
17  
18  
19  
20  
21  
22  
23 Taken by: Victoria M. Castillo, CCR #17

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1 (The hearing begins at 10:59 a.m.)  
2  
3 CHAIRMAN LESTER: At this  
4 time we will call the meeting to order.  
5 The first item is consideration of the  
6 minutes of the August 19th meeting. Each  
7 commissioner has had a chance to look  
8 through them.  
9 May I have a motion?  
10 MR. BROWN: Move to adopt  
11 the minutes.  
12 MR. LAIER: Second.  
13 DR. RICHARDSON: Second.  
14 CHAIRMAN LESTER: Motion and  
15 second.  
16 All in favor say "aye."  
17 (All members indicate "aye.")  
18 CHAIRMAN LESTER: On  
19 December 9th the Commissioners will appoint  
20 the Personnel Committee Chairman and the []  
21 Rule Making Committee Chairman.  
22 And the way we've done it in the  
23 past, if -- you-all may want to do it a

Page 2

1 A P P E A R A N C E S  
2  
3 COMMISSION MEMBERS PRESENT:  
4  
5 John H. Lester, D.V.M, Chair  
6 H. Lanier Brown, II, Esq., Vice-Chair  
7 James E. Laier, Ph.D., P.E.  
8 Samuel L. Miller, M.D.  
9 Terry D. Richardson, Ph.D.  
10  
11 COMMISSION MEMBERS NOT PRESENT:  
12 W. Scott Phillips  
13  
14 ALSO PRESENT:  
15 Robert Tambling, Esq. EMC Legal Counsel  
16 Debi Thomas, EMC Executive Assistant  
17 Lance LeFleur, ADEM Director  
18  
19  
20  
21  
22  
23

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1 different way -- is the two chairmans ought  
2 to pick chair members as to the ones that  
3 they would like to be on those two  
4 committees.  
5 At this time we will have a  
6 Commission election of the Commission Chair  
7 and Vice Chair. We will entertain a motion  
8 regarding the election of the Chair.  
9 Do I have a motion?  
10 DR. RICHARDSON: Move to  
11 elect John Lester.  
12 MR. BROWN: Second.  
13 CHAIRMAN LESTER: Thank  
14 you.  
15 All in favor say "aye."  
16 (All members indicate "aye.")  
17 CHAIRMAN LESTER: Moving  
18 forward, the next item is for the election  
19 of the Vice Chair.  
20 Do I have a motion?  
21 DR. RICHARDSON: Move to  
22 elect Lanier Brown Vice Chair.  
23 DR. MILLER: Second.

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1 CHAIRMAN LESTER: Motion and  
2 a second.  
3 All in favor say "aye."  
4 (All members indicate "aye.")  
5 CHAIRMAN LESTER: All  
6 opposed?  
7 (No response.)  
8 CHAIRMAN LESTER: Always  
9 good to have a lawyer behind you. Before I  
10 get to the report of the Director, I just  
11 would like to say that it's been an  
12 interesting year for me. And of course  
13 this is my 17th year on the Board, but it's  
14 really been a good year. We've had good  
15 members placed on the Board. I have a new  
16 Director.  
17 Lance, you've done an  
18 outstanding job, from my position. All of  
19 our Department heads have done everything  
20 that's expected of them. All of our  
21 individual workers in the ADEM family have  
22 done their job, and we have us a good  
23 lawyer in Robert there to keep us out of

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1 all the trouble that we've been in. And of  
2 course we, the Commission, couldn't do  
3 anything without our secretary Deb.  
4 So Deb, you have done an  
5 outstanding job. What folks don't realize  
6 is she's been here since the beginning of  
7 this Department and even before that, 33  
8 and 35 years of service that she's been  
9 keeping all of us straight.  
10 At this time we will hear from  
11 our Director.  
12 MR. LeFLEUR: Thank you,  
13 Chairman. Congratulations on your  
14 election, and the Vice Chairman also.  
15 I want to welcome all of you  
16 present at this meeting, this first meeting  
17 of the Alabama Environmental Management  
18 Commission for fiscal year 2012. To begin,  
19 let me summarize the Department's financial  
20 results for fiscal year 2011, and then  
21 review our financial prospects for fiscal  
22 year 2012.  
23 I'd like to then highlight some

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1 of our challenges and goals for the coming  
2 year, and finally closing out my remarks by  
3 recognizing several notable environmental  
4 activities completed in the last year.  
5 Our fiscal year 2011 operating  
6 budget called for expenditures of  
7 approximately \$62 million, and we operated  
8 within that budget.  
9 The operating budget does not  
10 include the independent self-funding  
11 activities of the State's revolving fund  
12 loan program, the State -- the scrap tire  
13 cleanup program or the underground storage  
14 tank cleanup program.  
15 These programs are administered  
16 by the Department; however, the  
17 expenditures for those specialized  
18 activities in these programs are  
19 statutorily matched to the dedicated  
20 funding sources.  
21 As you know, the Department's  
22 operating budget is funded primarily from  
23 three sources: Federal funds in the form

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1 of grants to administer federal statutes,  
2 the departmental fees, and state general  
3 funds.  
4 In FY-11 federal funds and  
5 departmental fees came in close to  
6 projections; however, as reported in  
7 previous Commission meetings, state general  
8 funds were reduced by 33 percent late in  
9 the fiscal year.  
10 The 33 percent state general  
11 fund shortfall was made up with revenues  
12 received from the administration of  
13 previously disbursed stimulus funds and  
14 reimbursement from BP for oil spill cleanup  
15 work done along the gulf coast.  
16 These were one-time sources, so  
17 neither of these will be available to  
18 supplement FY-12 revenues. As a side note,  
19 the vast majority of the stimulus funds  
20 administered by the Department were used  
21 for upgrading municipal drinking water and  
22 sewer projects.  
23 The Department came through

<p style="text-align: right;">Page 9</p> <p>1 fiscal year 2011 in reasonably good shape; 2 however, it does face challenges in fiscal 3 year 2012 because of an additional 32 4 percent reduction in the state general 5 funds. This is on top of fiscal year 6 2011's 33 percent reduction in funding. 7       Additionally, the closeout of 8 the chemical demilitarization program in 9 Anniston, along with closeout of the BP 10 spill response and the stimulus program, 11 will require us to shift those workers back 12 to traditional programs in fiscal year 13 2012. 14       The adoption at this meeting 15 today of the 19 percent permit fee increase 16 along with continued streamlining of 17 operations are key components to our 18 efforts to overcome the financial 19 challenges we will be facing in fiscal year 20 2012. 21       And we need these in order to 22 face those challenges without compromising 23 our mission to assure the citizens of the</p>	<p style="text-align: right;">Page 11</p> <p>1 e-NOI, and the electronic discharge 2 monitoring report, which we call the e-DMR 3 programs, by the end of fiscal year 2012. 4       The remaining three industrial 5 GPs will be switched over during fiscal 6 year 2013. We will also issue the 7 pesticide general permit and two sand and 8 gravel GPs during fiscal year 2012. 9       Both of the sand and gravel GPs 10 will require utilization of the e-NOI and 11 e-DMR systems. We now have approximately a 12 thousand, or 15 percent, of our permitted 13 entities on the e-DMR system. 14       By the end of 2012, that number 15 will quadruple to almost 4,000. Over the 16 next five years, we will add the remaining 17 thousand entities as we phase in additional 18 industrial and municipal sites when their 19 currently outstanding five-year permits 20 come up for reissue. 21       New industrial sites, of course, 22 will be added in electronic format as 23 they're permitted as well. By the end of</p>
<p style="text-align: right;">Page 10</p> <p>1 state a safe and healthful and productive 2 environment. 3       Let me switch now to the other 4 goals and challenges for the new fiscal 5 year. We will continue our aggressive 6 campaign to convert entirely to an 7 electronic format in all of our programs. 8       This modernization not only 9 saves the Department's scarce resources, it 10 also greatly improves the accuracy of our 11 data and monitoring systems, thereby 12 improving the efficiency of our programs as 13 a whole. 14       As you know we've had an ongoing 15 effort to move to general permits, GPs, 16 which reduces workload for both the 17 Department and the regulated community and 18 often results in tighter permit standards 19 being applied. 20       Out of the 19 current industrial 21 GPs, we plan to have 16 of them on both the 22 electronic notification of intent to 23 operate under a GP, or as we call it the</p>	<p style="text-align: right;">Page 12</p> <p>1 fiscal year 2012 at least two-thirds of the 2 facilities will be converted to electronic 3 format. 4       By the end of fiscal year 2016, 5 we will have complete automation in these 6 systems. These will have dramatic impacts 7 on our budgets and on the efficiency of the 8 Department. 9       In future Commission meetings, I 10 will be reporting to you on a number of 11 additional initiatives planned for the 12 coming year, and some of these include a 13 review of statewide solid waste disposal 14 plan which will include landfill siting, 15 and codification of recycling programs. 16       We will be significantly 17 expanding the beneficial reuse of scrap 18 tires. We are seeking attainment status 19 for ozone and fine particles for the entire 20 state. We will look to obtain authority 21 from the federal government to allocate SO2 22 and NOx emissions within the state. 23       We will be working on statewide</p>

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1 water use policy. I will be reporting to  
2 you on our efforts to promote county wide  
3 storm water management programs throughout  
4 the state, and I will report to you on our  
5 efforts to reach out to various interest  
6 groups, including disadvantaged communities  
7 in the state.  
8       There have been many noteworthy  
9 environmental accomplishments in Alabama  
10 during the last year, and I'd like to  
11 recognize a few of them at this time. In  
12 no particular order, I'd like to highlight  
13 six of these for you.  
14       First, let me recognize the work  
15 of the environmental committee of the  
16 Coastal Resiliency Commission. More than  
17 800 leaders from business, faith based,  
18 charitable, environmental, educational,  
19 health, volunteer, and governmental  
20 organizations, along with private  
21 individuals came together and developed  
22 framework to help the Alabama gulf coast  
23 recover from the deepwater horizon oil

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1 spill.  
2       That framework is now in place,  
3 and it will allow us to quickly and  
4 efficiently put to work the substantial  
5 funds the State anticipates receiving from  
6 BP for this recovery effort.  
7       Second, I'm pleased to highlight  
8 the passage of coal ash legislation. The  
9 legislature, working in concert with  
10 electric generating utilities and  
11 environmental groups in the state, adopted  
12 legislation to control coal combustion  
13 residue for the first time in Alabama.  
14       This prevents Alabama from  
15 becoming the ash disposal site for the rest  
16 of the nation by removing the dubious honor  
17 of being the only state not controlling  
18 coal ash.  
19       Third, let me bring to your  
20 attention the resolution of the decades old  
21 marine waters degradation problem caused by  
22 inadequate treatment of wastewater in Bayou  
23 La Batre. The City of Bayou La Batre,

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1 environmental groups -- most notably Mobile  
2 Baykeeper -- and several other participants  
3 have been able to resolve financial,  
4 environmental, legal, and other differences  
5 in an agreement that not only solves a 30  
6 year long pollution problem by bringing a  
7 state of the art wastewater treatment plant  
8 to this critical wetlands area, but also  
9 sets up a shoreline stabilization and  
10 pollution remediation program by expanding  
11 harvestable oyster beds.  
12       This is an example of a real  
13 coming together of diverse interests in a  
14 way that creates very significant  
15 environmental benefits.  
16       Fourth, allow me to highlight  
17 development of the "Treasured Alabama  
18 Lakes" designation. Alabama is blessed  
19 with abundant high quality water  
20 resources. An important step in protecting  
21 these resources for future generations is  
22 first to recognize them for what they are,  
23 treasures.

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1       Certainly the act of designating  
2 high quality water as treasured is a source  
3 of pride for those invested in that body of  
4 water. It provides motivation to treat  
5 that water as a treasure, preserving it for  
6 the future. It also inspires those  
7 invested in other waters of the state to  
8 bring their home waters up to the standards  
9 necessary to obtain treasured status.  
10       Environmental business and  
11 governmental interests came together to  
12 protect one of the things that truly makes  
13 our state Alabama the Beautiful.  
14       Next, I'm pleased to report the  
15 initiation of important TVA environmental  
16 mitigation projects. For two years five  
17 states, including Alabama and the EPA, have  
18 been negotiating with TVA to settle claims  
19 related to air emissions from coal fired  
20 plants operated by TVA.  
21       A settlement was reached earlier  
22 this year. Alabama was awarded \$11  
23 million, which will be used to reduce

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1 energy usage in the TVA service area in  
2 north Alabama.  
3       Drinking water and wastewater  
4 treatment facilities and other publicly  
5 owned entities will be provided grants and  
6 low cost loans to install more energy  
7 efficient equipment, which will both  
8 benefit the public financially and reduce  
9 carbon footprint in that area of the  
10 state.  
11       Finally, let me mark the  
12 successful completion of the Chemical  
13 Weapons Demilitarization Project at the  
14 Anniston Army Depot. In the lobby we have  
15 an exhibit that goes over some of the  
16 issues that I will be talking with you  
17 today about.  
18       Shortly after 3:00 p.m. on  
19 Thursday, September 22nd of this year, the  
20 last of more than 661,000 nerve agent and  
21 mustard agent filled munitions stored at  
22 the Anniston Army Depot was destroyed.  
23       This was the culmination of a

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1 process that began in the 1980s. The  
2 permit for the Anniston facility was issued  
3 in 1997, and the destruction process began  
4 in 2003.  
5       During the eight year operating  
6 period, the process was monitored by the  
7 Department, 24 hours a day, seven days per  
8 week, resulting in a commitment of more  
9 than 71,000 work hours.  
10       There was not a single release  
11 of any chemical agent outside the  
12 destruction chamber, not one release during  
13 this entire time. This program is  
14 important because with the destruction of  
15 196,000 gallons of VX nerve agent, 96,000  
16 gallons of GB nerve agent, in addition to  
17 the 661,000 aging chemical munitions, a  
18 significant threat to our citizens has been  
19 eliminated and Alabama is a safer place  
20 today.  
21       The successful completion of  
22 this program has been widely reported in  
23 the media. I want to recognize some things

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1 that were not reported in the recent media  
2 coverage. This was certainly among the  
3 most controversial projects, environmental  
4 or otherwise, ever undertaken in Alabama.  
5       The process involved more than  
6 25 public hearings, which were often marred  
7 by fierce demonstrations. The  
8 Commissioners, some of you whom -- some of  
9 whom are here today, were subjected to  
10 abusive treatment by many of the  
11 demonstrators. The Commission acted  
12 courageously, undertaking difficult but  
13 necessary actions to protect the citizens  
14 of Alabama.  
15       The wisdom of the Commission has  
16 been born out with the successful  
17 completion of this effort. This represents  
18 one of the proudest moments in the 29-year  
19 history of the Commission, and I am pleased  
20 to honor the Commission's outstanding and  
21 courageous service to our state.  
22       Let me close with a thank you  
23 for the opportunity to serve alongside

Page 20

1 you.  
2       If there are any questions, I  
3 will be pleased to answer them.  
4       DR. RICHARDSON: Yes,  
5 Mr. Director, the TVA settlement, along  
6 with this, I believe you said, \$11 million  
7 award, is there a commitment from TVA or a  
8 stipulation in this settlement that they  
9 will indeed burn less coal?  
10       MR. LeFLEUR: They will be  
11 shutting down -- is it nine units of --  
12 nine of their units will be -- coal fire  
13 units will be closing down as a part of  
14 this settlement. They will be producing  
15 less air emissions as a part of the overall  
16 settlement.  
17       DR. RICHARDSON: Thank you.  
18       CHAIRMAN LESTER: Any other  
19 questions?  
20       (No response.)  
21       CHAIRMAN LESTER: Thank you,  
22 Mr. Director.  
23       MR. LeFLEUR: Thank you.

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1 CHAIRMAN LESTER: The next  
2 item of business is the resolution. One of  
3 our members got a little bitty promotion.  
4 Marquita Davis got promoted to Finance  
5 Director of the State of Alabama. I think  
6 that's a small promotion.  
7 She's well deserved of it, and  
8 she did a wonderful job while she was here  
9 with us, and she's very strong. A lot of  
10 folks think, "Well, she doesn't act real  
11 strong." But she is in her actions. This  
12 resolution reads as follows: "Marquita  
13 Davis served as a member of the Alabama  
14 Environmental Management Commission as a  
15 member at large position of October 10,  
16 2010 until October 2011, wherein she  
17 provided experience, wisdom, and foresight  
18 in the Commission's deliberations on  
19 significant issues. Her dedication to  
20 effectively resolving environmental issues  
21 was always accomplished at great personal  
22 effort and sacrifice; therefore, it is  
23 resolved that the Alabama Environmental

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1 Management Commission express gratitude to  
2 Marquita Davis for her significant  
3 contribution to a better environment and an  
4 improved quality of life of the citizens of  
5 Alabama."  
6 Do I have a motion?  
7 DR. RICHARDSON: So move.  
8 MR. LAIER: Second.  
9 CHAIRMAN LESTER: All in  
10 favor say "aye."  
11 (All members indicate "aye.")  
12 CHAIRMAN LESTER: All  
13 opposed?  
14 (No response.)  
15 CHAIRMAN LESTER: Not many  
16 folks have got to work with her, but she is  
17 an outstanding lady. And I think the  
18 Governor is going be well served and the  
19 people of the state of Alabama will be well  
20 served with her addition.  
21 The next item of business is to  
22 consider the adoption of the proposed  
23 amendment to ADEM's Administrative Code

Page 23

1 335-1, General Administration Regulations.  
2 MR. KELLY: Good morning,  
3 Mr. Chairman, members of the Commission.  
4 I'm Russell Kelly, Chief of the Permits and  
5 Services Division. As part of your  
6 package, you have the hearing record and  
7 related documents to the proposed adoption  
8 of the ADEM Administrative Code Division.  
9 335-1.  
10 These proposed rule changes  
11 reflect a 19 percent fee increase across  
12 the board with a few exceptions. Those  
13 exceptions were specifically addressed in  
14 the Summary of Reasons.  
15 In addition, the Division 1  
16 Revision includes the addition of eight new  
17 forms, the deletion of one form, and the  
18 modification of 20 existing forms.  
19 It's important to note that a  
20 public hearing was held on September 21st,  
21 2011, and the record was held open until  
22 the close of business on October 5th, 2011.  
23 We received comments, both pro

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1 and con, from three entities. All the  
2 comments were basically general in nature,  
3 and they have been addressed in the  
4 Reconciliation Statement.  
5 In addition, the Department has  
6 removed several unnecessary rule references  
7 in some of the schedules. Those deletions  
8 have no effect upon the proposed rules.  
9 At this time I'm requesting your  
10 favorable action concerning these proposed  
11 revisions.  
12 And I will conclude and answer  
13 any questions.  
14 CHAIRMAN LESTER: Any  
15 questions from the Committee?  
16 DR. RICHARDSON: Move to  
17 adopt the proposed amendment.  
18 MR. BROWN: Second.  
19 CHAIRMAN LESTER: All in  
20 favor say "aye."  
21 DR. RICHARDSON: Excuse me,  
22 Mr. Chairman, I'd like to discuss this for  
23 just a minute, please.

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1 CHAIRMAN LESTER: I thought  
2 that's what you wanted before the motion.  
3 DR. RICHARDSON: I am  
4 concerned about -- I mean, I understand  
5 what a 33 percent budget increase --  
6 decrease, excuse me -- I'm sure you wish it  
7 was a 33 percent increase -- That a 19  
8 percent increase is not really that  
9 substantial, but it is something the  
10 regulated community is going to have to  
11 bear, some of them certainly are more able  
12 to bear that than others.  
13 But I guess it's my feeling  
14 that -- and this might be a better question  
15 for the statement for the Director -- that  
16 a lot of this really has to do more with  
17 the substantial increase in federal  
18 regulations and statutes related to storm  
19 water and stuff that's come down through  
20 the pipe over the past four or five years,  
21 really stressing us on our budget that we  
22 might not have to be asking for a 19  
23 percent increase if we didn't have these

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1 coming down the pipe.  
2 Is that a fair assessment?  
3 MR. KELLY: I will give you  
4 my assessment of how we got to this number  
5 so maybe that will shed a little light on  
6 it, and I don't think the Director will  
7 mind me sharing this story.  
8 We got 19 percent. Seems like a  
9 number just pulled out of the air to make  
10 up the difference in the deficit, and  
11 actually that's not true. Five percent of  
12 that is based on our fringe and COLAs. We  
13 do that periodically every four or five  
14 years because of increases in cost, either  
15 through COLA -- hadn't had many lately and  
16 don't anticipate any, but we did get one in  
17 October of '08, which we've never accounted  
18 for.  
19 In addition, our fringe has  
20 increased -- I think it was another 1.5 or  
21 1.6, something like that. That gave us  
22 5.1. We rounded that off to 5 percent on  
23 the fringe and COLA.

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1 And we always traditionally --  
2 will do that every four or five years when  
3 that percentage adds up between 5, 10, or  
4 higher.  
5 Well, we basically came up with  
6 the other 14 percent. We visited, as we  
7 always do with the finance director, last  
8 December about our 2012 budget. Everyone  
9 was getting cut, as you know we did, 32  
10 percent, on the funding side.  
11 And we were asked what was our  
12 bottom number, "What can you live with?  
13 What do you have to have?" We have to have  
14 \$4.9 million to match our federal grant.  
15 We have to have -- they gave us \$3.9  
16 million, so it really stuck us in a  
17 situation.  
18 If you look at the 14 percent,  
19 it comes out based on historical averages  
20 for the last four or five years, \$1  
21 million.  
22 Now, in saying that we also, as  
23 you know -- if you looked in the package,

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1 you're probably aware of this -- we do have  
2 the authority to capture 100 percent of our  
3 cost in the permit fees. We do not do  
4 that.  
5 This Director, along with every  
6 director we've ever had, is cognizant in  
7 not gauging the public, getting enough  
8 funds to meet our intent. And our intent  
9 is to provide the timely resolution to the  
10 permitting process, in addition to  
11 maintaining control over our land, air, and  
12 water resources.  
13 That is the intent of the  
14 legislature. And that money that we came  
15 up with was the money that we thought was  
16 necessary in order to meet that intent and  
17 well within the statute that's allowed by  
18 us. So that's where --  
19 MR. LeFLEUR: Excuse me.  
20 MR. KELLY: Sure.  
21 MR. LeFLEUR: Russell is  
22 very much on top of all these situations.  
23 But to address your specific question about



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1 increasing mandates from the federal  
2 government having an impact on our fee  
3 structure, it certainly does.  
4 The water area has been the area  
5 where the EPA has been most active in  
6 promulgating new regulations. This is  
7 an -- has been an ongoing problem, as you  
8 point out, for a number of years.  
9 Our Water Division has been  
10 severely underfunded as a result of this  
11 because the federal government is not  
12 providing funding to implement the new  
13 regulations that are coming. This fee  
14 increase helps offset a portion of that,  
15 although it does not do that by any stretch  
16 of the imagination completely. So your  
17 point is well taken.  
18 DR. RICHARDSON: So our  
19 federal grants that we're getting to help  
20 us implement federal statutes are not  
21 keeping pace with the cost that's required  
22 to implement these?  
23 MR. LeFLEUR: That's

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1 correct. They're staying virtually flat  
2 while the mandates increase.  
3 DR. RICHARDSON: So camp  
4 them out to unfunded federal mandates?  
5 MR. LeFLEUR: Exactly.  
6 CHAIRMAN LESTER: Any other  
7 questions?  
8 (No response.)  
9 CHAIRMAN LESTER: I knew you  
10 were going to ask a question. I wanted  
11 make sure you asked it before we voted.  
12 But we voted and you made a motion, and  
13 then you made a motion. Sort of confused  
14 me a little bit.  
15 Do you have anything else?  
16 MR. KELLY: No, I'm good.  
17 CHAIRMAN LESTER: Thank  
18 you.  
19 MR. KELLY: Thank you.  
20 CHAIRMAN LESTER: You sort  
21 of caught me off guard with that. That's  
22 all right. I am going to give you a  
23 chance.

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1 DR. RICHARDSON: Thank you  
2 very much. I appreciate it.  
3 CHAIRMAN LESTER: Does the  
4 Commission have any other business?  
5 MS. THOMAS: You need to  
6 vote.  
7 MR. TAMBLING: You need to  
8 vote.  
9 CHAIRMAN LESTER: We had a  
10 motion and second?  
11 MS. THOMAS: Yes, we --  
12 CHAIRMAN LESTER: Okay, all  
13 in favor say "aye."  
14 (All members indicate "aye.")  
15 CHAIRMAN LESTER: Any other  
16 business?  
17 MS. THOMAS: You need to  
18 sign this resolution that we're passing  
19 down.  
20 DR. MILLER: It is my  
21 understanding though that we're still not  
22 charging 100 percent of what we actually  
23 have to spend; is that correct?

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1 MR. LeFLEUR: That is  
2 correct. After this 19 percent increase,  
3 we will be charging approximately 60  
4 percent of the cost of issuing the permits,  
5 although we are authorized to recover 100  
6 percent.  
7 CHAIRMAN LESTER: The next  
8 meeting will be December 9th.  
9 Does any Commissioner have a  
10 problem with December 9th?  
11 (No response.)  
12 CHAIRMAN LESTER: Trying to  
13 get it early where we won't be on Christmas  
14 or New Year's.  
15 If not, then I have a motion to  
16 adjourn.  
17 All in favor say "aye."  
18 (All members indicate "aye.")  
19 CHAIRMAN LESTER: Thank you.  
20 (The hearing concluded at 11:30 a.m.)  
21 \*\*\*\*\*  
22  
23

1 STATE OF ALABAMA)

2 COUNTY OF MONTGOMERY)

3

4 I hereby certify that the above  
5 proceedings were taken down by me and  
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10 I further certify that I am  
11 neither of kin nor of counsel to any of the  
12 parties nor in anywise financially  
13 interested in the outcome of this case.

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STATE OF ALABAMA:  
COUNTY OF MONTGOMERY

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		<b>W</b>	<p style="text-align: center;"><b>Y</b></p> <p><b>year (27)</b> 5:12,13,14;6:18,20,22; 7:2,4,5;8:9;9:1,3,5,12, 19;10:5;11:3,6,8;12:1,4, 12;13:10;15:6;16:22; 17:19;18:5 <b>years (8)</b> 6:8;11:16;16:16; 25:20;26:14;27:2,20; 29:8 <b>Year's (1)</b> 32:14 <b>you-all (1)</b> 3:23</p>



**Part B**



## **Attachment Index**

- |                     |  |
|---------------------|--|
| <b>Attachment 1</b> | <b>Agenda</b>  |
| <b>Attachment 2</b> | <b>Order adopting motions to elect John Lester as Chair and Lanier Brown as Vice-Chair<br/>(Agenda Item 2 – Elections)</b>   |
| <b>Attachment 3</b> | <b>Resolution for former Commissioner Marquita F. Davis, Ph.D.<br/>(Agenda Item 4 – Report from the Commission Chair)</b>  |
| <b>Attachment 4</b> | <b>Resolution adopting amendments to ADEM Admin. Code Division 335-1, General Administration Regulations<br/>(Agenda Item 5 – Consideration of adoption of proposed amendments to ADEM Admin. Code Division 335-1, General Administration Regulations [Includes NPDES-Related Matter])</b> |



**Attachment 1**





Amended 10/11/11

AGENDA\*  
MEETING OF THE  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: October 21, 2011

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

<u>ITEM</u>	<u>PAGE</u>
1. Consideration of minutes of meeting held on August 19, 2011**	2
2. Elections	2
3. Report from the Director	2
4. Report from the Commission Chair	2
5. Consideration of adoption of proposed amendments to ADEM Admin. Code Division 335-1, General Administration Regulations (Includes NPDES-Related Matter)	2
6. Other business	2
7. Future business session	2

\* The Agenda for this meeting will be available on the ADEM website,  
[www.adem.alabama.gov](http://www.adem.alabama.gov), under Environmental Management Commission.

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

1. CONSIDERATION OF MINUTES OF MEETING HELD ON AUGUST 19, 2011

2. ELECTIONS

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

3. REPORT FROM THE DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

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

The Commission will consider proposed amendments to ADEM Admin. Code Division 335-1, General Administration Regulations. The revisions to Chapter 335-1-1 are being proposed to add, modify, and delete Departmental forms. Chapter 335-1-6 is proposed for amendment to increase permit fees. The Department held a public hearing on the proposed revisions on September 21, 2011.

6. OTHER BUSINESS

7. FUTURE BUSINESS SESSION

**Attachment 2**



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

MOTIONS

Elect John Lester as Chair

Elect Lanier Brown as Vice-Chair

ORDER

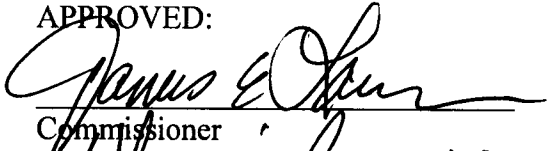
This cause having come before the Environmental Management Commission pursuant to the above motions, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motions are hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order  
Page 2

ISSUED this 21st day of October 2011.

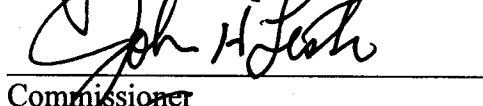
APPROVED:

  
Commissioner

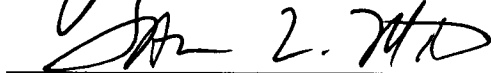
Commissioner

  
Commissioner

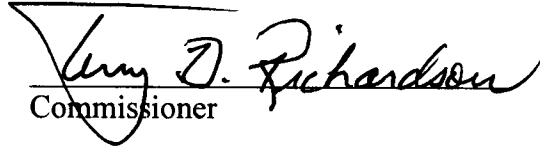
Commissioner

  
Commissioner

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DISAPPROVED:

Commissioner

Commissioner

ABSTAINED:


Commissioner

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 21st day of October 2011.

  
Chair  
Environmental Management Commission  
Certified this 21st day of October 2011

**Attachment 3**





# State of Alabama



## RESOLUTION

*WHEREAS, Marquita F. Davis, Ph.D. served as a member of the Alabama Environmental Management Commission in the member at large position from October 2010 until October 2011; and*

*WHEREAS, she provided experience, wisdom, and foresight in the Commission's deliberations on significant issues; and*

*WHEREAS, her dedication to effectively resolving environmental issues was often accomplished at great personal effort and sacrifice; now*

*THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses gratitude to Marquita F. Davis, Ph.D. for her significant contribution to a better environment and an improved quality of life for the citizens of Alabama.*

*DONE this 21st day of October 2011.*

*John Lester*

*Paul C. Mitt*

*Terry D. Richardson*

*H. James Buecum II*

*James E. Lee*



**Attachment 4**



**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-1 of the Department's General Administration Division Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

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

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

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

NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-1 [335-1-1-.07/Departmental Forms, Instructions, and Procedures (Amend); 335-1-6-.04/Permit Applications Fees (Amend); 335-1-6-.05/Water Quality Certification and Coastal Area Management Certification Fees (Amend); 335-1-6-.07/Payment of Fees (Amend)] of the Department's General Administration Division Program rules, administrative code attached

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

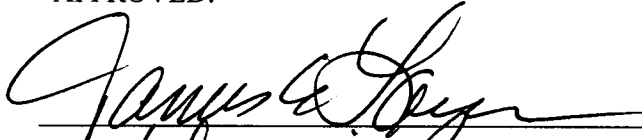
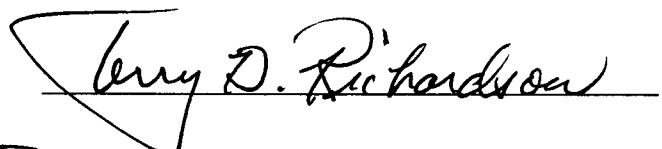

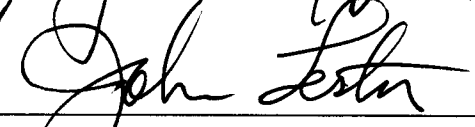
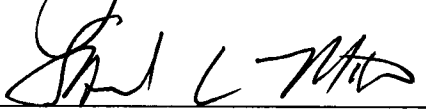
hereto, to become effective thirty-five days, unless otherwise indicated, after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

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

IN WITNESS WHEREOF, we have affixed our signatures below on this 21st day of  
October 2011.

APPROVED:

 _____	 _____
 _____	_____
 _____	_____
 _____	_____

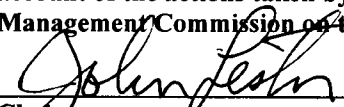
DISAPPROVED:

_____	_____
_____	_____
_____	_____

ABSTAINED:

_____	_____
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This is to certify that this Resolution is a true and accurate  
account of the actions taken by the Environmental  
Management Commission on this 21st day of October 2011.

  
\_\_\_\_\_  
Chair  
Environmental Management Commission  
Certified this 21st day of October 2011