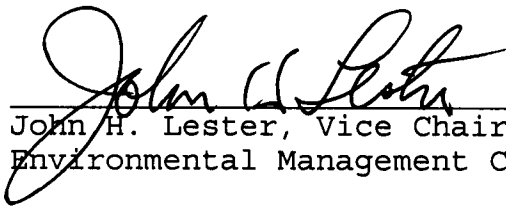


**4/19/10**

**Minutes  
Environmental Management Commission Meeting  
Alabama Department of Environmental Management Building  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059  
February 19, 2010**



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 February 19, 2010.

  
\_\_\_\_\_  
John H. Lester, Vice Chair  
Environmental Management Commission

Certified this 16th day of April 2010.



4/19/10

**Minutes**  
**Environmental Management Commission Meeting**  
**Alabama Department of Environmental Management Building**  
**1400 Coliseum Boulevard**  
**Montgomery, Alabama 36110-2059**  
**February 19, 2010**

**Convened: 11:00 a.m.**  
**Adjourned: 2:15 p.m.**

**Part A**

**Transcript**

**Part B**

**Attachment Index**

**Attachments 1 – 5**



## **Part A**





AEMC COMMISSION MEETING - 2/19/2010

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ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION MEETING  February 19, 2010, 11:00 a.m.	1 COMMISSIONER ARCHIE: I would like to call 2 this meeting of the Environmental 3 Management Commission to order. I would 4 like to acknowledge that we do have a 5 quorum, and Commissioner Brown is on his 6 way. 7 Agenda Item Number 1, consideration of 8 minutes of the meeting held on February the 9 9th, 2010. I will, at this time, entertain 10 a motion from the Commission. 11 COMMISSIONER PHILLIPS: So moved. 12 COMMISSIONER LESTER: Second. 13 COMMISSIONER ARCHIE: Any questions? 14 (No response.) 15 COMMISSIONER ARCHIE: I call for the question. 16 All in favor say aye. 17 COMMISSIONER PHILLIPS: Aye. 18 COMMISSIONER PIERCE: Aye. 19 COMMISSIONER LESTER: Aye. 20 COMMISSIONER WAINWRIGHT: Aye. 21 COMMISSIONER ARCHIE: Those opposed? 22 (No response.) 23 COMMISSIONER ARCHIE: The motion carried.
Page 2	Page 4
1 APPEARANCES 2 COMMISSION MEMBERS PRESENT: 3 ANITA L. ARCHIE, CHAIR 4 DR. JOHN H. LESTER, VICE CHAIR 5 H. LANIER BROWN, II 6 W. SCOTT PHILLIPS 7 SAM H. WAINWRIGHT 8 DR. J. CONRAD PIERCE 9 ALSO PRESENT: 10 JOHN P. HAGOOD, ADEM DIRECTOR 11 ROBERT TAMBLING, EMC LEGAL COUNSEL 12 DEBI THOMAS, EMC EXECUTIVE ASSISTANT 13 14 15 * * * * 16 17 18 19 20 21 22 23	1 (Whereupon, an affirmative 2 vote was taken.) 3 COMMISSIONER ARCHIE: Agenda Item Number 2 is 4 a report from the Director, Mr. Hagood. 5 MR. HAGOOD: Good morning. Thank you, Madam 6 Chair, members of the Commission. I'll 7 keep it short and sweet; y'all have a full 8 plate. I did want to say a few things, 9 though. You received a memo from me 10 concerning the contracts and the 11 rule-making, and I will entertain any 12 questions on those you may have. 13 Budgetary and legislative report, 14 we're on track with the FY10 budget. The 15 proposed FY11 budget currently proposed by 16 the 30% general fund cut that we will have 17 to manage through. We've managed through 18 cuts before. If this trend continues, our 19 reliance on the general fund will need to 20 be drastically decreased, and those are 21 issues that will come before you in your 22 role. 23 Very few legislative issues this

1 (Pages 1 to 4)

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<p>1 session. Some of the bills that have been                  2 introduced have been transformed into                  3 resolutions, which help us. We attribute                  4 that to the relationship that's been built                  5 with the Legislature over the past few                  6 years. We've worked with Russell Kelly and                  7 Marilyn in some of the efforts that we've                  8 made.                  9 I also sent you a memo outlining some                  10 of the interesting issues that have                  11 occurred since our last regular meeting.                  12 These issues include, but are not limited                  13 to, the Perry County Landfill remediation                  14 waste issues, which are demanding a number                  15 of resources from the Department, and the                  16 NPDES withdrawal petition, which we have                  17 discussed briefly before. Most of the                  18 issues that have come before us are in an                  19 adversarial context, and they are issues                  20 over which you will have ultimate rule                  21 probably at some point, so I don't want to                  22 get into too much discussion on those, but                  23 if you have any questions about the update</p>	<p>1 understand that Conservation Alabama has                  2 requested a stakeholder committee to                  3 explore this issue. Of course, that is an                  4 issue that would be before you, the                  5 policy-makers for this Department. The                  6 Department's position, of course, is that                  7 the MACT, Maximum Achievable Control                  8 Technologies, incorporated within the air                  9 permits will work through this issue, but                  10 we do stand ready to explore this issue in                  11 a manner you see fit or you see pertinent.                  12 On the NPDES, there are a couple of                  13 things I wanted to report. It appears that                  14 some of the growing pains associated with                  15 the re-engineering of this Department, the                  16 largest program may be coming to an end.                  17 We managed -- We have managed to remove                  18 some bureaucratic impediments that were                  19 unintended within the new system and                  20 inspections have increased 10 to 20% for                  21 this fiscal year. Overall, NPDES penalties                  22 have gone up this year, and that was                  23 expected. That's what we had reported at</p>
Page 6	Page 8
<p>1 memo that I sent as far as the management                  2 of those issues, I can entertain those now.                  3 Air toxics is an issue that was                  4 brought up at the last regular meeting, and                  5 over the past year, we have worked with                  6 representatives of Conservation Alabama on                  7 this issue. They -- Adam Snyder and David                  8 Ludder have worked with us very diligently                  9 to explore the issue, and through those                  10 efforts, we've reduced the ultimate issue                  11 down to a focus on approximately ten                  12 chemicals, and through the hard work of our                  13 Air Division, Mr. Howard and Mr. Gore, we                  14 have managed to get this into a -- this                  15 discussion into a form we think is much                  16 more manageable than it was a year ago.                  17 With that being said, my understanding is                  18 that Conservation Alabama will focus on                  19 working with Jefferson County Health                  20 Department for some of this -- to explore                  21 some of this issue, since that's where the                  22 bulk of the monitors are and that's where                  23 the bulk of the data comes from. I also</p>	<p>1 the end of last fiscal year, that there                  2 were things moving through the queue that                  3 have now come to fruition. We have issued                  4 32 penalties, totalling \$285,000 and some                  5 odd dollars as of January 15th. During all                  6 of '09, we issued 31 penalties, totalling                  7 \$286. So you'll see that hopefully we've                  8 turned the corner and gotten through some                  9 of the rough edges with all of the                  10 re-engineering of NPDES.                  11 Another point I wanted to make on                  12 NPDES is in our e-DMR system that we've put                  13 in place -- this is a focus of national EPA                  14 as well as ADEM. We have -- Through                  15 enforcement in permitting, we're                  16 encouraging 100% participation with this                  17 e-DMR program. Five hundred permittees                  18 participate currently, and Alabama is one                  19 of three states nationally that uses the                  20 Exchange Network to electronically flow                  21 this data, so we're a leader in this area.                  22 Through workshops and education, hopefully                  23 we'll get 100% participation in the e-DMR,</p>

2 (Pages 5 to 8)

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<p>1 and this will increase the efficiency in                  2 this program because it cuts out the                  3 print-and-paper middleman that only allows                  4 an opportunity to make mistakes, really.                  5 The lab -- I need to go over the lab a                  6 little bit because they have recently                  7 received a Drinking Water Certification                  8 from EPA. This is a culmination of years                  9 of planning from the Commission level to                  10 building the lab to the diligent work of                  11 our Field Operations Unit, and this                  12 highlights their competency, and I would                  13 like to point out a few of the employees                  14 involved -- Steve Jenkins, Joe Price, Ron                  15 Hamilton, Rip Starr, Karen Stovall, and                  16 there's some other lab rats that couldn't                  17 make it in here today -- but there ought to                  18 be a debt of gratitude for bringing us                  19 ahead in that area.                  20 COMMISSIONER PIERCE: John, could you have                  21 them stand up, please?                  22 MR. HAGOOD: Sure.                  23 (Applause.)</p>	<p>1 that was a big effort two years ago, we've                  2 completed a year there during 2009 -- the                  3 initial year. Thirty-seven grant                  4 applications were received, 8 applications                  5 selected. One point one million dollars                  6 was used to fund existing or startup                  7 recycling programs throughout the state.                  8 This year, the deadline for application is                  9 March 1. We anticipate one point five                  10 million dollars being available for grants                  11 for cities and locals for existing or                  12 improved recycling facilities.                  13 Additionally, on the illegal dump                  14 cleanup, \$850,000.00 has gone to 37 sites                  15 across the state for cleanup of illegal                  16 dumps. There was also a portion of that                  17 bill that we all helped pass.                  18 And on the scrap tire side, nearly                  19 \$150,000.00 has been used to remediate.                  20 That's not counting the huge site in                  21 Attalla, which was closed out during the                  22 previous year, so we're on track with all                  23 of our goals of refuse recycle, as you can</p>
Page 10	Page 12
<p>1 MR. HAGOOD: Stimulus money, you have a                  2 packet -- within your pack concerning our                  3 stimulus money, and we were -- we had a                  4 deadline of February the 17th to have all                  5 the funds appropriated under the Clean                  6 Water and Drinking Water Revolving Loan                  7 Fund, and we met that by January 15th. We                  8 were one of two states in the nation to                  9 comply with that requirement. The                  10 UST's and the Brownfields, the other                  11 stimulus money, is also being appropriated,                  12 and the people that had worked on this                  13 extremely diligently to make sure that                  14 these things happened and were appropriated                  15 properly, I would like to recognize --                  16 Marilyn Elliott, Aubrey White, James                  17 Dailey, Dorothy Malaier, Larry Norris, Dale                  18 Hurst. I recognize them.                  19 (Applause.)                  20 MR. HAGOOD: They are diligently working on                  21 appropriating the monies.                  22 The last thing I want to go over is in                  23 the Land Division, on the recycling bill</p>	<p>1 see, and I'll entertain any questions --                  2 hopefully, not many.                  3 COMMISSIONER ARCHIE: Any questions for Mr.                  4 Hagood?                  5 (No response.)                  6 COMMISSIONER ARCHIE: Thank you.                  7 MR. HAGOOD: Thank you.                  8 COMMISSIONER ARCHIE: Item Number 3 is a                  9 report from the Commission Chair. My                  10 report is that I did have the opportunity                  11 to meet with Conservation Alabama. We had                  12 a conversation -- at least I had a                  13 conversation with Mr. Ludder and                  14 Mr. Snyder. I appreciate them coming and                  15 visiting with me and talking with me about                  16 their work with the staff here at the                  17 Department. They're working it down to --                  18 Like Mr. Hagood said, there are ten                  19 particular chemicals, particles, that we                  20 actually would be looking at. I asked them                  21 to do some working with Jefferson County --                  22 they have done that -- and I am prepared at                  23 the next Commission meeting to -- for the</p>

3 (Pages 9 to 12)

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<p>1 Commission to consider this April a 2 stakeholder committee to look at those 3 issues -- those items, so at that time you 4 will have -- at next Commission meeting 5 that as an agenda item that we do establish 6 that stakeholder group. 7 That's the end of my report. Are 8 there any questions? 9 (No response.) 10 COMMISSIONER ARCHIE: Agenda Item Number 4 is 11 the consideration of adoption of proposed 12 amendments to ADEM Administrative Code 13 Division 3, Air Program Regulations. At 14 this time, I would like to call on the 15 Department for comments. 16 MR. GORE: Thank you. Madam Chair, Gentlemen, 17 my name is Ron Gore, with the Department's 18 Air Division. 19 As you know, there are many 20 regulations the Air Division administers 21 that delegate to us for day-to-day 22 administration by EPA. When EPA makes 23 additions or changes to those rules, we</p>	<p>1 (No response.) 2 (Whereupon, an affirmative 3 vote was taken.) 4 COMMISSIONER ARCHIE: Agenda Item Number 5 is 5 consideration of adoption of proposed 6 amendments to ADEM Administrative Code 7 Division 4, Scrap Tire Program Regulations. 8 At this time, I call on the Department. 9 MR. HARDY: Good morning. Madam chairman, 10 members of the Commission, I'm Gerald 11 Hardy, Chief of the Land Division, and I am 12 before you to recommend that the Commission 13 adopt amendments to the Department's Scrap 14 Tire Program Regulations. The proposed 15 regulations before the Commission today 16 would revise and clarify the remediation, 17 beneficial use, recordkeeping and reporting 18 requirements of the Scrap Tire Program to 19 be consistent with revisions to the Alabama 20 Scrap Tire Environmental Quality Act passed 21 in 2009 by the Legislature. The proposed 22 regulations necessary to promulgate these 23 revisions were the subject of a public</p>
Page 14	Page 16
<p>1 have to catch up periodically. This 2 catchup that I'm here talking to you about 3 today, we held a public hearing on December 4 the 9th, a public comment hearing from 5 October the 26th to December the 11th. No 6 comments were received. Pending any 7 questions, I would like to ask that you 8 adopt these revisions. 9 COMMISSIONER ARCHIE: Do we have any questions 10 of the Commission? 11 COMMISSIONER PHILLIPS: I move that we accept 12 the additions. 13 COMMISSIONER WAINWRIGHT: Second. 14 COMMISSIONER ARCHIE: Any discussion? 15 (No response.) 16 COMMISSIONER ARCHIE: Seeing none, I call for 17 the question. All in favor say aye. 18 COMMISSIONER BROWN: Aye. 19 COMMISSIONER LESTER: Aye. 20 COMMISSIONER PHILLIPS: Aye. 21 COMMISSIONER PIERCE: Aye. 22 COMMISSIONER WAINWRIGHT: Aye. 23 COMMISSIONER ARCHIE: Those opposed?</p>	<p>1 comment period that ran from November the 2 22nd, 2009, to January the 6th, 2010, and a 3 public hearing held on January the 6th. No 4 written or oral comments on these 5 regulations were received by the 6 Department. 7 Pending any questions you may have, 8 the Department asks that the Commission 9 adopt these changes to the Solid Waste 10 Regulations. 11 COMMISSIONER ARCHIE: Thank you. Do I have a 12 motion by the Commission? 13 COMMISSIONER PHILLIPS: So moved. 14 COMMISSIONER PIERCE: Second. 15 COMMISSIONER ARCHIE: Do I have any 16 discussion? 17 (No response.) 18 COMMISSIONER ARCHIE: Call for the question. 19 All in favor say aye. 20 COMMISSIONER WAINWRIGHT: Aye. 21 COMMISSIONER BROWN: Aye. 22 COMMISSIONER LESTER: Aye. 23 COMMISSIONER PIERCE: Aye.</p>

4 (Pages 13 to 16)

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<p>1 COMMISSIONER PHILLIPS: Aye.                  2 COMMISSIONER ARCHIE: Those opposed?                  3 (No response.)                  4 COMMISSIONER ARCHIE: The motion is carried.                  5 (Whereupon, an affirmative                  6 vote was taken.)                  7 MR. HARDY: Thank you.                  8 COMMISSIONER ARCHIE: Agenda Item Number 5 is                  9 the consideration of adoption of -- Agenda                  10 Item Number 6 -- excuse me -- is                  11 consideration of adoption of proposed                  12 amendments to ADEM Administrative Code                  13 Division 1, General Administration                  14 Regulations, and Division 13, Solid Waste                  15 Program Regulations. At this time I call                  16 on the Department.                  17 MR. HAGOOD: Madam Chair, in light of the fact                  18 that there are other regulations to come in                  19 this area, we will -- the Department would                  20 like to withdraw that rule from                  21 consideration today.                  22 COMMISSIONER ARCHIE: Okay. Thank you.                  23 Agenda Item Number 7 is consideration</p>	<p>1 December the 11th, 2009. No oral comments                  2 were received at the public hearing; no                  3 written comments were received during the                  4 comment period that ended on December the                  5 11th, 2009. On January the 20th, 2010, the                  6 State Committee of Public Health concurred                  7 with the Department's recommendation to                  8 adopt these rules as proposed.                  9 At this time, the Department requests                  10 the Commission adopt these rules as                  11 recommended, and I'll be glad to answer any                  12 questions.                  13 COMMISSIONER PHILLIPS: So moved.                  14 COMMISSIONER LESTER: Second.                  15 COMMISSIONER ARCHIE: Call for -- Any                  16 discussion?                  17 (No response.)                  18 COMMISSIONER ARCHIE: Call for the question.                  19 All in favor say aye.                  20 COMMISSIONER WAINWRIGHT: Aye.                  21 COMMISSIONER BROWN: Aye.                  22 COMMISSIONER LESTER: Aye.                  23 COMMISSIONER PHILLIPS: Aye.</p>
Page 18	Page 20
<p>1 of adoption of proposed amendments to ADEM                  2 Administrative Code Division 14, Hazardous                  3 Waste Program Regulations. At this time I                  4 call on the Department for comment.                  5 MR. HARDY: Again, good morning, Madam                  6 Chairman, members of the Commission. I'm                  7 Gerald Hardy, Chief of the Land Division.                  8 The Department is required to ensure                  9 that its Hazardous Waste Regulations remain                  10 equivalent to the U.S. Environmental                  11 Protection Agency regulations in order to                  12 retain its authorization from EPA. To                  13 maintain this equivalency, ADEM must                  14 annually revise its regulations. The                  15 revisions to Division 14 of the ADEM                  16 Administrative Code, which are before you                  17 for consideration, would incorporate                  18 Hazardous Waste Regulations promulgated by                  19 EPA from July the 1st, 2008, through June                  20 the 30th of 2009. Public notice of the                  21 proposed changes to the Hazardous Waste                  22 Regulations began on October the 25th,                  23 2009, and a public hearing was held on</p>	<p>1 COMMISSIONER PIERCE: Aye.                  2 COMMISSIONER ARCHIE: All opposed?                  3 (No response.)                  4 COMMISSIONER ARCHIE: Motion carried.                  5 (Whereupon, an affirmative                  6 vote was taken.)                  7 COMMISSIONER ARCHIE: Agenda Item Number 8 is                  8 Chicago Deer River Properties, LLC, versus                  9 ADEM, EMC Docket Number 10-03.                  10 I would like to acknowledge the petitioner's                  11 withdrawal of this appeal and request                  12 for a hearing.                  13 We're going to do a little catchup                  14 right here before we go to Agenda Item                  15 Number 9.                  16 If the Commission may a point of                  17 personal privilege, if I could at this time,                  18 before we move to Agenda Item Number 9. I                  19 have a conflict around 2:30 that may cause                  20 for me to have to leave. At that time,                  21 while we're having the interviews --                  22 hopefully we may be finished by that                  23 time -- but I do have a conflict, and</p>

5 (Pages 17 to 20)

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<p>1 Commissioner Lester, if you could carry on 2 the meeting for us. 3 At this time, Agenda Item Number 9, 4 interview candidates for the ADEM Director 5 position. I would like to note that the 6 Commission will conduct interviews of three 7 candidates for the ADEM director position. 8 The candidates are Lance R. LeFleur, Louis 9 M. Montgomery and Dean Argo, and the 10 interview schedule allots 45 minutes for 11 each interview, with 15 minutes between 12 each one. I would like to ask the 13 Commissioners, is there anything we need to 14 discuss, anything prior to the first 15 interview? 16 COMMISSIONER LESTER: I say we move them right 17 along, with the 15 minutes in between. 18 That way you can be gone to your meeting. 19 COMMISSIONER ARCHIE: Okay. I appreciate 20 that. 21 Any more comments? 22 (No response.) 23 COMMISSIONER ARCHIE: The first interview -- I</p>	<p>1 coming from the public input. We asked for 2 the public to submit to us questions; a lot 3 of the questions were basically -- some 4 were pretty much the same but worded in a 5 different way. We will go down the 6 questions in order and each Commissioner 7 would ask one question. 8 COMMISSIONER WAINWRIGHT: Thank you. 9 COMMISSIONER ARCHIE: There will be an 10 opportunity -- I just would like to note 11 there will be an opportunity if any one of 12 the Commissioners care to follow-up on a 13 particular question if you feel like you 14 did not get the answer you were looking for 15 or the candidate did not fully explain it. 16 COMMISSIONER PHILLIPS: And I assume we're 17 going to ask other questions beyond just 18 what was given? 19 COMMISSIONER ARCHIE: Okay. I want to make 20 sure that I ask Robert this question. 21 Commissioner Phillips asked that whether 22 each Commissioner would be allowed to ask 23 additional questions. I'm going to -- I</p>
Page 22	Page 24
<p>1 request that Mr. LeFleur be escorted to the 2 meeting room. If he's not here -- I know 3 we're kind of running a little ahead of 4 time, so if someone could check to see if 5 Mr. LeFleur is here. 6 COMMISSIONER PIERCE: Madam Chair, I would ask 7 that we try to make them feel as 8 comfortable as possible. This seems like 9 an awkward place to do an interview. I've 10 done quite a few interviews, but I've never 11 done one like this, though. I can imagine 12 my sitting in that place, so let's try to 13 be nice to them, I guess. 14 COMMISSIONER ARCHIE: All right. Everybody be 15 nice. 16 COMMISSIONER WAINWRIGHT: Madam Chair? 17 COMMISSIONER ARCHIE: Yes. 18 COMMISSIONER WAINWRIGHT: How are you going to 19 handle these questions we're going to ask? 20 Are you going to call us by question or -- 21 COMMISSIONER ARCHIE: Yes. Basically, there 22 are a list of questions that, of course, 23 were circulated. These questions are</p>	<p>1 want to make sure that we may not be 2 causing any problems if we ask one 3 particular candidate a question and may not 4 ask the other particular candidate. Are we 5 okay with that? 6 MR. TAMBLING: I think that's fine. You're 7 entitled to ask whatever questions you need 8 to ask, and if they're not the same ones, I 9 don't think it really matters. 10 COMMISSIONER ARCHIE: Okay. Great. I just 11 wanted to double check. 12 All right. Mr. LeFleur? 13 MR. LeFLEUR: Thank you. 14 COMMISSIONER ARCHIE: Please have a seat. I 15 know that looks kind of intimidating, but 16 we will play nice. 17 MR. LeFLEUR: Commissioners, thank you. I 18 appreciate you inviting me here this 19 morning. I know that you asked that I 20 prepare some comments for a few minutes to 21 give you my background and indicate to you 22 how that background might assist you in the 23 achievement of your goals and strategies as</p>

6 (Pages 21 to 24)

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<p>1 set out in the Strategic Plan. I have a                  2 handout I would like to give to help us                  3 follow along here. Does everybody have a                  4 copy of this? It's a summary of my                  5 comments.                  6 First, my qualifications and                  7 abilities. My experience has been leading                  8 and managing business organizations.                  9 That's what I've done for my entire career.                  10 The common thread among the organizations                  11 that I have been associated with has been                  12 that they have -- I've been there during                  13 times of rapid change, and to review them a                  14 little bit with you, the first                  15 organization -- and this is shown on my                  16 resume and will be a repeat of that to some                  17 degree.                  18 The first organization I was                  19 associated with, a bank holding company,                  20 the change involved the acquisition of                  21 commercial banks and consolidation of those                  22 banks into a single statewide organization.                  23 The banks were independent, sometimes</p>	<p>1 During the time I was there, we built two                  2 projects totaling approximately                  3 \$100,000,000.00. Those projects are                  4 operating today. They had processed                  5 somewhere in the range of 10,000,000 pounds                  6 of municipal solid waste during that time.                  7 The organization was approximately 100                  8 people, which included both the European                  9 and the U.S. organizations.                  10 The third organization, my present                  11 organization, is Materials Recovery Corp.                  12 Materials Recovery Corp began as an idea                  13 that we worked with for some period of time                  14 building prototypes, trying to refine the                  15 technology, doing up a business plan. That                  16 began in 1990 -- latter part of 1990, and                  17 the first part of 1992, we obtained                  18 funding; we incorporated the business and                  19 began commercial operation. Up until that                  20 time, the operation had only been related                  21 to testing of materials and that type of                  22 thing. We grew from there to now we do                  23 business throughout the United States.</p>
Page 26	Page 28
<p>1 fiercely independent. They were well                  2 established and local-focused markets, to                  3 convert them over into a statewide                  4 organization -- single statewide                  5 organization was a significant change for                  6 them, and we ended up with an organization                  7 that had 50 offices throughout the state, a                  8 billion dollars of assets -- that's back                  9 when a billion dollars meant something --                  10 and 800 employees, so that was the first                  11 organization that I was associated with.                  12 The second organization I was                  13 associated with was Blount Energy Resource,                  14 and Blount Energy Resource was a subsidiary                  15 formed by Blount, Inc. -- Blount, Inc.,                  16 being a large international company located                  17 here in Montgomery. Many of you are                  18 familiar with -- Red Blount founded it --                  19 but Blount Energy was charged with                  20 developing by design, build and own and                  21 operate waste energy facilities. I joined                  22 the organization shortly after it was                  23 formed; it had no projects going. We --</p>	<p>1 Internationally, we ship to China and                  2 India. Our peak employment is about 25                  3 people. We have processed something in                  4 excess of 200,000,000 pounds of plastic                  5 waste that has been kept out of landfills.                  6 The last 25 years of my career have                  7 been associated with managing businesses                  8 that are dedicated to environmental                  9 improvement -- green businesses. That's                  10 been what I do -- energy and materials                  11 recovery.                  12 The final qualification that you see                  13 on that sheet in front of you is my                  14 education. I have a bachelor of science                  15 degree from Georgia Institute of Technology                  16 in Atlanta and master, and MBA, from                  17 Southern Methodist University in Dallas,                  18 and I completed the Advanced Management                  19 Program at Harvard Graduate School in                  20 Cambridge.                  21 The Strategic Plan -- and I'm trying                  22 to follow through with the Strategic Plan                  23 to make that connection that you're looking</p>

7 (Pages 25 to 28)

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<p>1 to have made -- begins with a mission                  2 statement: Assure for all Citizens of the                  3 State a Safe, Healthful and Productive                  4 Environment. I am well aware of the                  5 Commission's challenge in meeting that                  6 mission statement when it has both economic                  7 and environmental components to it, and                  8 there are those who are interested in one                  9 or another of the elements in there. What                  10 I bring to the effort is my background is                  11 in both the economic and the environmental                  12 piece, so my ability to see both of those                  13 is in place as we go forward.                  14 The Strategic Plan also addresses                  15 early on three areas: One is the values                  16 that they hold -- they are held within the                  17 organizations, second is the role of the                  18 Commission and the Department, and third is                  19 the vision that the Department and the                  20 Commission share. And briefly touching on                  21 each of those, the values listed are -- and                  22 I may be paraphrasing some of this in an                  23 effort to move along more quickly, but the</p>	<p>1 me an appreciation for the process of                  2 scientific decisions, science-based                  3 decisions. I am a believer in that, and my                  4 wife says sometimes to excess. But on the                  5 objectivity side, once again my involvement                  6 in both the business community and the                  7 environmental community, I think, gives me                  8 some ground to stand on to look objectively                  9 at the needs of both of those interest                  10 groups.                  11 Moving on, the roles -- as I was                  12 reading through the roles, I was -- the                  13 role of the Commission and the role of the                  14 Department are not unlike the roles of                  15 boards of directors in business                  16 organizations and business management --                  17 management and the Department and -- excuse                  18 me -- the board of directors. The one                  19 difference that I -- is evident to me in                  20 the comparison of board of directors of a                  21 corporation to the Commission is the                  22 Commission's mandate to be a setter of                  23 public policy in the environmental field.</p>
Page 30	Page 32
<p>1 values that are listed there include                  2 respect for each other's role, transparent                  3 communication, wise use of resources,                  4 actions guided by agreed-upon goals. These                  5 are bedrock values. These are values that                  6 business organizations day in and day out                  7 must have in order to successfully operate.                  8 There's nothing unusual about those. The                  9 unusual one is the one that I jumped over,                  10 which is the science-based objectivity, and                  11 there's an asterisk next to it on here -- a                  12 copy. Without science-based objectivity,                  13 it's clear that ADEM cannot do what -- its                  14 job, what it's supposed to do. Without                  15 scientific-based objectivity, the                  16 Department cannot do its job. This is a                  17 bit unusual for businesses, although it is                  18 critical for the Commission, I understand.                  19 It is somewhat unusual for businesses. My                  20 training in chemistry -- and as you study                  21 chemistry, you also get involved with                  22 physics and mathematics and things like                  23 that, but my training in those areas gives</p>	<p>1 That's a unique piece of the Commission's                  2 work. As I was reading the role of the                  3 Department, I was struck by the recurrence                  4 of the word "manage," and as I read through                  5 it and tried to organize it, I said, "Well,                  6 the role of the Department is to manage                  7 permitting, compliance and enforcement, to                  8 manage information -- that's an implied                  9 management -- manage budget, manage                  10 financial resources, manage operations,                  11 manage people resources. Clearly,                  12 management expertise is what's required of                  13 the Director if these are to be achieved.                  14 The technical expertise, I understand,                  15 resides in the divisions. That's where the                  16 Division Chiefs that have come up through a                  17 rigorous qualification process and that's                  18 where the technical expertise is expected                  19 to be in ADEM. I don't bring the technical                  20 expertise that would in any way supersede                  21 the expertise of the Division Chiefs.                  22 They -- They are more experienced and they                  23 have the training to handle that expertise,</p>

8 (Pages 29 to 32)



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1 although my science background gives me a  
 2 ready ability to understand their  
 3 activities.  
 4 Moving on to vision, the vision  
 5 portion cites four areas for  
 6 accomplishment, and of course, they're not  
 7 exclusive -- the plan says they're not  
 8 exclusive, but they're four that were  
 9 worthy of mention, and the four listed were  
 10 air quality, recycling, water quality,  
 11 brownfield reuse and redevelopment, and as  
 12 I looked at those, I -- my current business  
 13 materials were covered. We have been  
 14 boots-on-the-ground recycling. Clearly, we  
 15 embrace that vision. In 2004, we moved our  
 16 operations to Brookley Industrial Complex,  
 17 which is one of the larger brownfield sites  
 18 in the state. We felt it was necessary for  
 19 us to walk the talk.  
 20 On the air quality side, carbon going  
 21 into landfills is the source of methane gas  
 22 from landfills. As we all know, methane  
 23 gas has twenty times the greenhouse impact

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1 of CO2. The less carbon going to the  
 2 landfill, the less methane gas generated.  
 3 Both Materials Recovery, by keeping plastic  
 4 out of the landfill, and Blount Energy  
 5 Resource Waste Energy keeping waste out of  
 6 the landfill, both of these work to improve  
 7 the air quality through reducing the amount  
 8 of methane generated in landfills. Less  
 9 direct, in fact, when we reduce materials  
 10 going to the landfill, we also reduce the  
 11 possibility of groundwater contamination.  
 12 So our activities over the years have been  
 13 putting into practice the vision that's  
 14 expressed in the plan for the Commission  
 15 and for the Department. We feel very close  
 16 to those. Those are a big part of it.  
 17 Moving into the goals -- and I want to  
 18 address these goals. There are four goals  
 19 listed in the Strategic Plan and six  
 20 strategies that overlap in which of the  
 21 goals they are intended to help achieve but  
 22 generally assigning them to one or another  
 23 of them. Goal -- The first goal listed in

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1 the Strategic Plan seeks to create an  
 2 effective and responsive Commission, and to  
 3 do that, to implement that goal, it  
 4 requires communication, tracking of issues  
 5 and information support. Now,  
 6 communication seems to be a recurring theme  
 7 in this Strategic Plan. That came through.  
 8 All communication is to be open and clear  
 9 is listed as one of the items. The  
 10 Department is the provider of the  
 11 information to the Commission. The  
 12 Commission is obviously the user of that  
 13 information. Having sat on both sides of  
 14 boardroom tables, I can easily understand  
 15 the importance of having the right  
 16 information at the right time to make  
 17 decisions that are necessary. It's  
 18 especially important when the weight of  
 19 determining public policy related to the  
 20 environment is concerned, and I have a full  
 21 appreciation for that need for keeping the  
 22 Commission informed. I believe the  
 23 Director should be held accountable for

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1 keeping the Directors informed -- the  
 2 Commissioners informed. That -- They have  
 3 no reasonable basis or way to get  
 4 information, at least in the quantity and  
 5 the detail that they need, except through  
 6 that Director. That's a critical link.  
 7 The second goal -- The second goal  
 8 listed in the Strategic Plan is seeking to  
 9 create a high-performance work environment  
 10 that has a goal focus, and summing up all  
 11 of the components of that is managing the  
 12 performance against the plan. The  
 13 Commission is looking to have people that  
 14 buy into the program, know what's going on  
 15 in the program and gauge their activities  
 16 by the program. My experience with  
 17 planning is that that is where goal focus  
 18 starts. If people are not involved in the  
 19 planning process, they don't buy in. It's  
 20 a piece of paper on their desk; they don't  
 21 pay any attention to it. Unless people are  
 22 involved, they're not going to buy into the  
 23 plan, and the plan is where the goals are

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Page 37	<p>1 set out. There's an emphasis on comparison                  2 of people's work against the plan. I tell                  3 my people, "Look. The plan is the easiest                  4 way to measure people's performance. You                  5 have it all laid out there. If you're                  6 going to measure someone's performance and                  7 use something other than the plan, you have                  8 to come up with new standards to measure                  9 them against." The plan is the easy way to                  10 measure people's performance, and when we                  11 look at how do we instill that desire to be                  12 goal-oriented to do the things each day                  13 that requires to move toward improving                  14 operations, solving problems, all of those                  15 things come from the top. If the top                  16 person in the organization -- my                  17 experience, if the top person in the                  18 organization daily addresses those -- it's                  19 a day-to-day activity -- then they get                  20 done. If it's not a day-to-day activity,                  21 it's a once a year activity or once a                  22 quarter activity or once a month activity,                  23 it falls by the wayside.</p>	Page 39	<p>1 have a relationship of some kind, but it's                  2 not a credible relationship. As time goes                  3 by, if the relationship is credible, it                  4 sticks; the relationship continues. My                  5 work history, I worked -- being employed as                  6 long as I've been employed, only had three                  7 employers, is, I guess, somewhat unusual,                  8 but I have at least some indication that                  9 credible relationships are part of the way                  10 that I work. They allow for long-term                  11 relationships in businesses.                  12 Once again, I've been accountable to                  13 stockholders and directors for more than                  14 thirty years in my career, and I bring                  15 that, and dealing with external                  16 stakeholders is not a new activity.                  17 And the final goal listed in the                  18 Strategic Plan is achieving efficient and                  19 effective departmental operations, and that                  20 would be characterized by quality                  21 operations and by achieving compliance.                  22 Achieving compliance is the bottom line.                  23 That's where the rubber meets the road. If</p>
Page 38	<p>1 Third goal listed was developing                  2 credible relationships with external                  3 stakeholders. External stakeholders here                  4 would include obviously the citizens of the                  5 state, the legislative branch, the                  6 executive branch, business community,                  7 environmental community -- many external                  8 stakeholders that we want to have credible                  9 relations with, and those are typified in                  10 the planning stage: Open and efficient                  11 input from stakeholders, fair treatment of                  12 all stakeholders and making economically                  13 sound and timely decisions. I list                  14 embracing values as key as the third item                  15 here, and actually, it ought to be the                  16 first item. The values that are set forth                  17 in the early part of the Strategic Plan, I                  18 believe, are a key to developing those                  19 credible relationships. Also, as I thought                  20 about this credible relationships question,                  21 I look back and it occurs to me that those                  22 kinds of relationships are developed over                  23 time. The first day you meet somebody you</p>	Page 40	<p>1 everybody was in compliance with the state,                  2 there would be no problems; nobody would                  3 have any comments on the paper. This                  4 requires managing multiple activities. It                  5 correctly states in the plan makes                  6 compliance -- the standard is making                  7 compliance. The standard is a way to                  8 achieve compliance by everybody, know                  9 what's expected and fair, consistent,                  10 timely enforcement. Managing a business                  11 organization requires multiple activities.                  12 Every day there's a problem that arises,                  13 there's a quality issue, there's a budget                  14 that needs to be compared against, there's                  15 limited amount of time available --                  16 multiple activities -- and managers are the                  17 ones that see that. Staff people,                  18 sometimes they have a staff function; they                  19 have to focus on that staff function 100%                  20 of the time to get that job done properly.                  21 Managers have a broader view of operations.                  22 I also bring -- and this is the final                  23 point I want to bring up -- is that I have</p>

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<p>1 a business perspective. I've been in                  2 business for thirty -- more than thirty                  3 years, and from experience, I know that                  4 businesses -- they have a desire to comply.                  5 They're, for the most part, good citizens,                  6 but they particularly have a desire for                  7 predictability. They want to know what the                  8 rules of the game are, they want to know                  9 how they're supposed to go about doing it,                  10 and they want to know what happens if they                  11 don't do it, and their desire for                  12 predictability is completely                  13 understandable, and it's also difficult for                  14 them to get that predictability. I know                  15 EPA has made a number of changes in                  16 regulations -- more are coming, more are on                  17 the way -- and that predictability is going                  18 to be less and less as time goes by.                  19 I guess, in summary, I understand the                  20 Commission; I understand the mission of the                  21 Commission and the Department. I                  22 understand key components of the Strategic                  23 Plan. I also understand that the</p>	<p>1 have I spoken to the Commissioners, yes, I                  2 have had an occasion to speak to the                  3 Commissioners prior to submitting an                  4 application. Other than that, I have no                  5 association with any of the Commissioners.                  6 COMMISSIONER PHILLIPS: Okay. Thank you.                  7 COMMISSIONER ARCHIE: Commissioner Brown?                  8 COMMISSIONER BROWN: What primary areas for                  9 change within the operation of the agency,                  10 if any, would you focus on should you                  11 become Director?                  12 MR. LeFLEUR: Well, I was reading an article                  13 by Robert Gates, Secretary of Defense, and                  14 I was struck by one of his comments where                  15 he was addressing the issue of gays open                  16 and serving in the military, and he was                  17 asked if he had made the changes yet, and                  18 he said, "No." Said, "I have a lot of                  19 experience in making changes. I've done it                  20 wrong a lot of times and I've done it                  21 right, and I understand that it's necessary                  22 to involve those people who will be                  23 impacted by the change, involve them in the</p>
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<p>1 Commission is challenged, has many                  2 challenges, as the Department does -- some                  3 internal, some external. I believe that my                  4 qualifications and my experience give me                  5 what's necessary to lead ADEM in these                  6 times.                  7 I appreciate you having me here, and                  8 any questions that you might have, I would                  9 be pleased to answer them.                  10 COMMISSIONER ARCHIE: Thank you, Mr. LeFleur.                  11 Commissioner Phillips?                  12 COMMISSIONER PHILLIPS: Thank you, Mr.                  13 LeFleur, for being here and for your                  14 statements.                  15 I have one question for you, which is                  16 do you -- currently or any time in the                  17 past, have you had business and/or personal                  18 relationships with any Commissioner on this                  19 Commission? And if so, please describe the                  20 relationship and how, if you're hired, you                  21 would mitigate those -- the perception of                  22 conflict.                  23 MR. LeFLEUR: Well, if a relationship means</p>	<p>1 decision for change," and clearly, changes                  2 to ADEM that may be required require the                  3 new Director to assess the situation to                  4 assist and presumptively say there are                  5 going to be changes. That said, I read the                  6 newspapers -- I read the editorials, I read                  7 the articles, I read the letters to the                  8 editor, I've read the blueprint carbon                  9 reform, I've read the petition to remove                  10 water authority from the Department -- and                  11 there are many issues raised in each of                  12 those documents, and those are issues that                  13 I believe need to be addressed. Some of                  14 them will be -- result in action, and in                  15 fact, some of them have already resulted in                  16 action. Whether they resulted in action or                  17 whether they happened to also describe an                  18 action already taking place in ADEM is not                  19 clear, but those are issues that certainly                  20 need to be addressed. Other changes at                  21 ADEM -- ADEM is -- We have a new                  22 administration present. The activities of                  23 EPA are being affected by the philosophy of</p>

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<p>1 that new administration, and those 2 priorities will come down through EPA and, 3 of course, will affect the state. The 4 outside world is changing. There will be 5 constant change; some of it may be dramatic 6 in this new administration. I hear a 7 conversation about new air rules that will 8 have a dramatic impact on the state, and to 9 me, the most important thing here is we 10 don't know what the changes are going to 11 be. We know there will be changes, but how 12 does the organization handle those changes, 13 how do they implement change. And as I 14 said, I believe the way to implement that 15 change is involving the people that will be 16 impacted by it. 17 I hope that answers your question. 18 COMMISSIONER BROWN: It does, but I would like 19 to follow-up with something you mentioned 20 in relation to that. You said there are 21 many challenges internal and external to 22 the Department. What is -- What do you see 23 as the challenges and what direction would</p>	<p>1 there are some good relations coming in. I 2 mentioned air earlier, that the new air -- 3 as I understand it, the proposed 4 regulations, might help to speed -- this is 5 better suited for one of the division 6 heads, but if new air regs are put in 7 place, it will have a substantial effect on 8 nonattainment within the state. 9 COMMISSIONER ARCHIE: Commissioner Wainwright? 10 COMMISSIONER WAINWRIGHT: Mr. LeFleur, in the 11 government, we're not allowed the luxury of 12 privacy that you have in the corporate 13 world. We have to deal with the Freedom of 14 Information Act and the Open Meetings Act, 15 and I would like your view on how you might 16 handle this transparency we have to deal 17 with. 18 MR. LeFLEUR: Well, there's clearly a move 19 towards greater transparency in government; 20 it's a move that appears at all levels. 21 Some branches and agencies are getting in 22 step more quickly than others. ADEM seems 23 to be getting its queue from the executive</p>
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<p>1 you like to see taken? 2 MR. LeFLEUR: Well, as I was doing my research 3 to throw my hat in the -- prior to throwing 4 my hat in the ring for the position, I went 5 around and talked to as many people as I 6 could think of to talk to that might have 7 some thoughts about ADEM, and one of the 8 comments that I received was that ADEM 9 morale is not what many people would like 10 for it to be. Morale -- The biggest 11 determiner of morale is leadership, whether 12 it's a sports team, military, church or the 13 government -- you name it. It's leadership 14 that determines morale, and exercising 15 leadership at ADEM, I believe, is one of 16 the keys to improving morale. People want 17 to know that their leader sets the right 18 example, that the leader has high 19 standards, that the leader gets results, 20 that the leader takes a personal interest 21 in it. I think leadership is one of these 22 things internally that may be a challenge 23 to be addressed early on. I think that</p>	<p>1 branch taking its queue, and for all of the 2 criticism that ADEM and the Commission 3 receive in the newspapers, I know even the 4 most vocal critics compliment ADEM on its 5 move towards transparency. I don't see 6 transparency as being stopped or moved 7 backwards. I just see it continuing. It 8 has -- It brings up certain problems with 9 where does a person's personal life end and 10 the public right to know begin, so there 11 are some issues to be dealt with there, but 12 transparency is here and it's going to get 13 more -- it's going to increase. 14 COMMISSIONER ARCHIE: Mr. LeFleur, you kind of 15 touched on a little bit the question in 16 your remark, and I'm getting ready to ask 17 -- I'm going to ask you to expand on that a 18 little bit: How do you plan to address the 19 interests and goals of both industrial 20 business entities and environmental groups 21 on the operation of the agency? In your 22 review, who are the clients of the agency 23 and how does the agency address competing</p>

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<p>1 interests of those clients?                  2 MR. LeFLEUR: Well, ultimately I believe the                  3 clients of the agency are the people of                  4 Alabama. I think they are the ones we're                  5 looking to please. Now, to please the                  6 people of Alabama, we need to have rules --                  7 environmental rules that assure us, as the                  8 Mission Statement says, a safe and                  9 healthful environment. The Mission                  10 Statement also says it needs to be a                  11 productive environment. I believe that                  12 businesses are not -- are not opposed to                  13 having regulations of the activities in the                  14 environmental area. What's important in, I                  15 believe, the Department's eyes and in                  16 businesses' eyes is to make sure that those                  17 regulations are in force even-handedly. We                  18 can't -- We can't compromise anything in                  19 our environmental work, but we can do it in                  20 such a way that we also make this a                  21 productive environment, that we make it                  22 such that if -- for instance, if a company                  23 is looking to locate in California or</p>	<p>1 address?                  2 MR. LeFLEUR: Air toxics, as I understand, has                  3 --                  4 COMMISSIONER ARCHIE: Let's don't focus on air                  5 toxics. It can be any issue. Let's                  6 just --                  7 MR. LeFLEUR: For example, air toxics have                  8 less regulation, less standards, and                  9 ambient standards are not in existence for                  10 many of the air toxics, I believe. Having                  11 a standard is -- has to be the starting                  12 point. There has to be a standard against                  13 which actions are measured. To the degree                  14 that there are standards, the standards                  15 have to -- have to trump. If there are no                  16 standards, then the Department must fall                  17 back on what is in the interest of the                  18 people of the state, and it then becomes a                  19 judgment issue. I'm struggling a little                  20 bit with trying to focus on your                  21 questions -- your question. I don't know                  22 that I have the pieces that you're looking                  23 for there.</p>
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<p>1 Alabama, which one might they select if in                  2 one place it takes five years to get a                  3 permit and in the other place it takes                  4 eighteen months to get a permit? Both have                  5 the same standards they go by. I think                  6 that it helps the state to have timely                  7 enforcement, timely action on permits.                  8 COMMISSIONER ARCHIE: Let me kind of expand on                  9 that just a little.                  10 MR. LeFLEUR: Please.                  11 COMMISSIONER ARCHIE: I mean, to give you an                  12 example, just a few minutes ago, earlier in                  13 the Commission meeting, there was an issue                  14 that has been very important to the                  15 environmental community dealing with air                  16 toxics, and I made a recommendation of -- I                  17 listened to that -- to the group, their                  18 concerns, and believe that it's an issue                  19 that this Commission needs to address, so                  20 what I'm more asking of is how do you                  21 manage the expectations, really, in these                  22 interests of the various groups? How will                  23 you make sure that each group enters this</p>	<p>1 COMMISSIONER ARCHIE: I'll move on. I'm going                  2 to say this -- it's what my opinion is --                  3 is that you have a lot of interests here at                  4 ADEM -- like you said, external and                  5 internal -- the stakeholders, even in the                  6 Department staff -- they are Stakeholders                  7 in this -- and so what I'm really asking                  8 for was actually your approach to how do                  9 you balance the expectation? Because                  10 there's a lot of expectation on each side.                  11 How do you balance those expectations?                  12 Because in the end, it's all about                  13 compromise and coalition and working                  14 together --                  15 MR. LeFLEUR: Absolutely.                  16 COMMISSIONER ARCHIE: -- so I'm trying to find                  17 out your philosophy on how -- You said it                  18 perfectly. The client is the State of                  19 Alabama -- the citizens of the State of                  20 Alabama, so I'm asking you how -- what is                  21 your approach to make -- to making sure                  22 that everybody's voice is heard?                  23 MR. LeFLEUR: Internally being if we have two</p>

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<p>1 opposing views on an action that should be                  2 taken within the Department --                  3 COMMISSIONER ARCHIE: Internally.                  4 MR. LeFLEUR: -- how are those resolved -- how                  5 are those issues resolved? Obviously,                  6 face-to-face involvement is key to that,                  7 and that has to be done within the                  8 parameters of the values that are held.                  9 The standard against which the question                  10 needs to be posed to the opposing -- to the                  11 opposing parties is say which one of these                  12 works in the interest of the people of the                  13 state. Is it better for the state to -- Is                  14 it better for the people of this state to                  15 go with this approach or is it better for                  16 the people of the state to go with the                  17 alternative approach and get the arguments                  18 on the table as far as which of those meets                  19 that standard the best. Externally, there                  20 are, I guess, the -- The most frequent                  21 comment that I got from people when I was                  22 discussing this job is they asked me how                  23 thick my hide was, and that's a fair</p>	<p>1 over 600 employees here, we have to work on                  2 a morale problem, so I guess -- and you                  3 answered a lot of this to Mr. Brown's                  4 question to you, but how do you manage                  5 without micro-managing so much that you                  6 cause a morale problem among all of our                  7 employees and our Department heads?                  8 MR. LeFLEUR: Managers have to train managers.                  9 Many of our technical people come up honing                  10 their skills -- their technical skills,                  11 their technical expertise. Management is                  12 like anything else. It's a learned                  13 activity, and helping these people be                  14 better managers, the Division Chief is the                  15 best one to talk to the people that report                  16 to him, not the Director, and the people                  17 that report to the Branch Chiefs, the best                  18 person to talk to them is not the Division                  19 Chief. The chain of command is something                  20 that I believe in. I believe in the chain                  21 of command. I think that management cannot                  22 operate without assigned duties by -- for                  23 each position. To improve morale, you need</p>
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<p>1 question, because whichever way you go,                  2 you've got somebody that's going to be                  3 wanting to test the thickness of that hide,                  4 but the Director is ultimately where the                  5 decision lies when there's a conflict                  6 between the parties within the                  7 organization. If the parties can't come to                  8 an agreement, the Director has to step up.                  9 That's what a leader does -- step up, make                  10 the call, and whatever the consequences                  11 are, understand them, but consequences are                  12 what they are. Obviously, if we can rely                  13 on the technical expertise within the                  14 Department, that's the best of all worlds,                  15 but when that's not possible, the issue has                  16 to be decided at the top.                  17 COMMISSIONER ARCHIE: Thank you. Commissioner                  18 Lester, you have the next two questions.                  19 COMMISSIONER LESTER: My question was going to                  20 be on the management style and morale                  21 approach.                  22 As you know, the Strategic Plan is                  23 tentative on management. Also, with 600 --</p>	<p>1 to improve leadership. Leadership has to                  2 come from the person that is being reported                  3 to. If someone reports to me, I am their                  4 first-line leader, not the guy above me,                  5 not the guy above him, but to the person                  6 they deal with each day, and getting those                  7 -- helping those people become better                  8 leaders, better managers, I think, is the                  9 key to the morale problem.                  10 COMMISSIONER LESTER: Thank you. I've got the                  11 next question, too.                  12 MR. LeFLEUR: Okay.                  13 COMMISSIONER LESTER: Over the past two years,                  14 we've had a lot of involvement in trying to                  15 get a lot of involvement in environmental                  16 justice, and I would like you to just give                  17 the definition of the term "environmental                  18 justice," and what do you think the                  19 responsibility of ADEM has with respect to                  20 environmental justice?                  21 MR. LeFLEUR: Well, as I understand it, there                  22 are no regulations outstanding on                  23 environmental justice, but that</p>

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<p>1 environmental justice is driven by                  2 principles. It's a principle that says                  3 that those who are impacted have the right                  4 to know what's going on. They need to get                  5 the facts. They also have -- The principle                  6 has to be implemented that says they are                  7 able to speak up and address the situation                  8 and, then finally, that their voices will                  9 be heard and considered. Now, how that's                  10 implemented -- I'm not familiar, obviously,                  11 with the forms and the procedures that go                  12 through in permitting, but at some place in                  13 the permitting process, I believe a line                  14 item is in order to say -- have -- you                  15 know, what are the environmental justice                  16 considerations in this case, how are they                  17 being addressed. It has to be -- You can't                  18 have a regulation right now that has a                  19 standard to compare it against, but at                  20 least some line item in the process that                  21 addresses environmental justice.                  22 COMMISSIONER LESTER: Thank you.                  23 COMMISSIONER ARCHIE: Commissioner Wainwright.</p>	<p>1 way in what they're doing. Funding is                  2 tight now; it's going to get tighter.                  3 Businesses every day deal with tight                  4 budgets. It's a question of priorities --                  5 setting the priorities for how the funds                  6 are expended. The priorities have to be                  7 sorted out at the top in the individual                  8 divisions. Each have probably far more                  9 uses for funds than funds are available,                  10 and at some point there has to be an                  11 allocation. The divisions may be able to                  12 allocate among themselves, but if they do,                  13 it's the first time I've ever seen it. The                  14 Legislature -- Obviously unfilled positions                  15 at ADEM are creating problems, as they are                  16 with all agencies.                  17 The -- My belief on increasing                  18 funding, the best case to be made for                  19 increasing funding is to make the best case                  20 possible that the existing funds are being                  21 used effectively. The better that case is                  22 made, the better the case is to increase                  23 funding. The Department is doing a number</p>
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<p>1 COMMISSIONER WAINWRIGHT: Mr. LeFleur, we have                  2 three sources of revenue that are the                  3 grants from the EPA, fines and fees from                  4 the permit holders and then from the                  5 Legislature -- from the General Fund.                  6 Oftentimes we are given what you might call                  7 an unfunded mandate by having to put in a                  8 new regulation that requires additional                  9 personnel and expenditure and we find                  10 ourselves short of funds in the budget.                  11 How would you approach such an incidence?                  12 Where do you feel you would go first to get                  13 an increase in revenue before you had to                  14 consider cutting back on services?                  15 MR. LeFLEUR: Well, I would probably be                  16 inclined to go to the source of the                  17 expense-generator and discuss how that                  18 expense is going to be covered. In this                  19 case, it may be EPA sending down mandates                  20 and having a detailed conversation about                  21 funding for that. Of course, EPA deals                  22 with all states, so it's difficult to have                  23 them back in any way other than a standard</p>	<p>1 of things. The E file program, I think, is                  2 an excellent -- I think that technology is                  3 being employed in ADEM in a very productive                  4 way, and I think that's going to -- need to                  5 continue, given the situation with funding.                  6 I don't see funding getting any better.                  7 COMMISSIONER ARCHIE: The next question is                  8 from Yours Truly. With so many counties in                  9 Alabama out of attainment for air quality                  10 measures, how would you direct the agency                  11 to take proactive steps to address this                  12 problem?                  13 MR. LeFLEUR: Well, I'm afraid I would have to                  14 work with the Air Division and get what                  15 their details are on that. I have not been                  16 a student of air attainment in the state,                  17 but I have -- I do understand that it's a                  18 technical question that the Air Division,                  19 I'm sure, has a position on.                  20 COMMISSIONER ARCHIE: Well, let me ask you                  21 your personal position on the issue -- your                  22 personal --                  23 MR. LeFLEUR: Air quality?</p>

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<p>1 COMMISSIONER ARCHIE: About climate change.                  2 MR. LeFLEUR: Oh, climate change. Climate                  3 change. I guess that's above my pay grade,                  4 but there's an awful lot of discussion on                  5 that. I think that it's -- it's -- it's                  6 good policy to take the actions for                  7 reducing carbon footprint, regardless of                  8 what the data indicate on global warming.                  9 I think that it makes good sense to proceed                  10 on the assumption that actions by people                  11 can help the situation. Do we -- Do we                  12 stop development because of global warming?                  13 No. We can't. The state has limited                  14 impact. The state is -- has to go in                  15 concert with what the nation is doing.                  16 There's no choice in that matter. But I                  17 see good practices concerning recycling,                  18 all of the things that people who are                  19 working on global warming want implemented,                  20 and I think those are good things.                  21 COMMISSIONER ARCHIE: Thank you. Commissioner                  22 Phillips?                  23 COMMISSIONER PHILLIPS: Mr. LeFleur, you</p>	<p>1 sense that I've gotten is that it's a                  2 serious issue, but that it is a manageable                  3 issue, especially in working with EPA. My                  4 first -- My first action on that would be                  5 to talk to the Water Division and then talk                  6 to EPA, visit Region 4 and find out their                  7 (inaudible).                  8 COMMISSIONER PHILLIPS: Thank you.                  9 COMMISSIONER ARCHIE: Commissioner Pierce?                  10 COMMISSIONER PIERCE: Mr. LeFleur, my question                  11 involves solid waste in landfills. On more                  12 than one occasion the Department has                  13 allowed a situation to develop where                  14 landfill owners have not met the obligation                  15 for reserve requirements for closure and                  16 post closure maintenance. How might you                  17 address this situation to assure that this                  18 does not remain a recurring problem?                  19 MR. LeFLEUR: One of the -- One of the                  20 provisions in the Strategic Plan has as its                  21 objectives to make compliance the standard.                  22 The expectation is compliance. That --                  23 Implementing that strategy, I believe, has</p>
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<p>1 mentioned the petition for removal of state                  2 authority currently before EPA on the NPDES                  3 program. Under your leadership, what would                  4 you do regarding that issue?                  5 MR. LeFLEUR: I'm not familiar with the people                  6 and the process for that petition. When I                  7 read the petition, it's quite dramatic, has                  8 some very substantial contentions in it,                  9 some very substantial impacts in it. I                  10 haven't -- I can't say that I've studied it                  11 to the degree that I can determine which of                  12 those are soundly based and which ones are                  13 without basis, but several of them do seem                  14 to have some basis. Some are beyond                  15 control -- funding questions. ADEM has                  16 only limited control over its funding, and                  17 to the degree that that lower funding has                  18 reduced the number of people available to                  19 do inspections and the number of                  20 inspections that have to be done, that's an                  21 allocation of resources within ADEM, and at                  22 what point does everybody go out of                  23 compliance with EPA? I think that the</p>	<p>1 a positive impact on having these come up                  2 later. It needs to be addressed as quickly                  3 as it occurs, not allowed to fester, and                  4 obviously, inspections is a key piece of                  5 that, but the regulations determine what                  6 reserves are required, what financial                  7 capability is required for landfill                  8 operation, and they need to be enforced on                  9 a regular basis. Trying to correct the                  10 problem is not near as effective as trying                  11 to prevent the problem.                  12 COMMISSIONER ARCHIE: Are there any follow-up                  13 questions from the Commissioners?                  14 COMMISSIONER WAINWRIGHT: I do.                  15 COMMISSIONER ARCHIE: Mr. Wainwright?                  16 COMMISSIONER WAINWRIGHT: Mr. LeFleur, from my                  17 own experience, it took me a couple of                  18 hours to get in the business and a couple                  19 of years to get out of it. Do you see any                  20 problem with the transition from your                  21 current ownership and operations of a                  22 corporation into this position?                  23 MR. LeFLEUR: Well, there are definitely</p>

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<p>1 challenges there. I have several options 2 that I'm currently working on. Of course, 3 I don't want to do anything. I may end up 4 getting rid of the business and having a 5 job, but presuming that this meeting 6 results in me being associated with ADEM, I 7 have a partner who's retired, and I'm using 8 as much moral persuasion as I can to have 9 him step up. I have two people that I had 10 planned to have take over the business at 11 some point, and I -- my work with them may 12 be, "Welcome to the future. You are now 13 taking over the business." I also have 14 suppliers and customers that I've dealt 15 with for many years, and several of them 16 are working -- we're having discussions 17 with them. So to answer your question, it 18 may take a long time to get out of it, but 19 there are several things working. 20 COMMISSIONER WAINWRIGHT: You don't see it 21 being an interference in any way? 22 MR. LeFLEUR: No. My objective is to sever my 23 ties with my business, and how long that</p>	<p>1 for. I'm sure -- well, present company 2 included that have stepped up to public 3 service, and there's a time when it's time 4 to do that. I've been made aware of the 5 importance of service. As a young child -- 6 Sometimes it didn't stick very well, but as 7 a young child, and in my more mellow time 8 of life, I see that -- I see that people 9 have gone before me, and that's where it 10 comes down. I've had a lot of 11 conversations with my wife about this -- my 12 best advisor. 13 COMMISSIONER ARCHIE: Anymore questions of Mr. 14 LeFleur? 15 (No response.) 16 COMMISSIONER ARCHIE: Mr. LeFleur, thank you 17 for being here today. You will be notified 18 by the Commission of our selection at the 19 appropriate time. 20 MR. LeFLEUR: Okay. Well, thank you so much. 21 COMMISSIONER ARCHIE: Thank you very much. 22 MR. LeFLEUR: I appreciate y'all's kindness in 23 having me here and your gentleness with me</p>
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<p>1 takes, as you pointed out, may be longer 2 than I would like for it to be. 3 COMMISSIONER ARCHIE: Mr. Brown? 4 COMMISSIONER BROWN: Why do you want the job? 5 MR. LeFLEUR: Because it's such a cushy job. 6 A lot of people ask me that. A lot of 7 people ask me that, and I've thought about 8 it a great deal. That's a very pertinent 9 question for me. I've lived in Alabama for 10 forty years, my wife has lived here all of 11 her life, I've reared two children in 12 Alabama. We have vacationed in the 13 mountains, at the lakes and at the beach. 14 We've fished the lakes and the rivers and 15 the coastal waters. We have -- We 16 have enjoyed the environment in the State 17 of Alabama. My business is based on the 18 environment. Alabama has provided me 19 economic opportunity, and we've been 20 blessed. We've been blessed. I have -- I 21 have many friends who have left the private 22 sector and stepped up to public service, 23 people that I have a great deal of respect</p>	<p>1 during these conversations. 2 COMMISSIONER ARCHIE: Thank you. 3 I recognize we've been sitting in 4 these chairs since 11:00, so let's take a 5 break to 12:30 and then we will interview 6 Mr. Louis Montgomery. 7 (At which time a recess was 8 taken.) 9 COMMISSIONER ARCHIE: If someone would escort 10 Mr. Montgomery in, we will begin. 11 (Brief interruption.) 12 COMMISSIONER ARCHIE: Thank you, 13 Mr. Montgomery, for being here today. At 14 this time, we will let you provide any 15 comment you would like to provide for the 16 Commission, and then we will move into our 17 questioning period, so please begin. 18 MR. MONTGOMERY: Thank you for inviting me 19 here this afternoon. I appreciate having 20 the opportunity for this interview. 21 As you know, I grew up in Alabama -- 22 I've been back here for several years -- 23 and during that time, I've worked</p>

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<p style="text-align: right;">Page 69</p> <p>1 extensively with Alabama Department of                  2 Environmental Management. I helped draft                  3 legislation for ADEM programs, and I                  4 followed the workings of the Department, as                  5 well as the Environmental Management                  6 Commission.                  7 These are, of course, challenging                  8 times, but also challenging times for the                  9 Department and the Commission. Many of the                  10 challenges have already been addressed in                  11 the 2009 Strategic Plan, as well as in the                  12 draft 2010 Strategic Plan. I'm here today                  13 because I want to be part of the team that                  14 meets those challenges.                  15 I've been talking to a lot of people                  16 since Trey Glenn resigned. I've talked to                  17 people in the business community,                  18 environmental community, as well as people                  19 here at the Department; many of these                  20 people I've worked with over the years on a                  21 variety of environmental issues, so --                  22 whether it was from regulatory compliance,                  23 environmental restoration, education,</p>	<p style="text-align: right;">Page 71</p> <p>1 we can to improve people's lives. One of                  2 the people who I particularly admired was                  3 Dr. Walter Jones, State Geologist and the                  4 first Director of the Alabama Oil and Gas                  5 Board. Dr. Jones was a naturalist and a                  6 conservationist who was also a champion of                  7 the needs of business and industry in                  8 economic growth. He understood that our                  9 economic needs and aspirations are not                  10 simply balanced against protection of our                  11 natural resources, but that these two                  12 necessities need to work hand-in-hand.                  13 Environmental stewardship is a necessary                  14 part of real economic growth, and true                  15 economic growth promotes and protects                  16 and enhances our natural resources. We                  17 live healthier, more productive lives, with                  18 more opportunities for everyone to prosper                  19 and provide for their families when we have                  20 clean water to drink, clean air to breathe                  21 and a clean, green earth to enrich our                  22 souls. These are lessons I first learned                  23 as a boy and then as a young man and</p>
<p style="text-align: right;">Page 70</p> <p>1 economic development, and often, during                  2 these conversations, people ask me, "Why do                  3 you want to do this?" Once, early on when                  4 I was asked this, I blurted out, "Because I                  5 want to serve the people of Alabama," and                  6 as soon as I said that, I felt that that                  7 was not necessarily the right answer or a                  8 good answer. It seemed like it wasn't very                  9 well polished. It might have come across                  10 as disingenuous, maybe even naive, but the                  11 more I thought about it -- the more I                  12 thought about why I want to be ADEM                  13 director, the more -- I knew that that is                  14 exactly why I want this position, because I                  15 want to be able to serve the people of my                  16 state -- serve the people of Alabama.                  17 Growing up, the people I knew and admired                  18 most were people who were active in our                  19 community, who were active in public life.                  20 They were people who, whether they worked                  21 in the public sector or the private sector,                  22 took seriously the responsibility that we                  23 all have to our fellow citizens to do what</p>	<p style="text-align: right;">Page 72</p> <p>1 continue to learn today. They are lessons                  2 I put to practice as an Eagle Scout, as an                  3 engineering student, while working overseas                  4 in developing countries and throughout my                  5 professional career, whether in the private                  6 sector or working for municipalities in                  7 state government. Whether as a team member                  8 or as the director of a large complex                  9 organization with a multi-million dollar                  10 budget or working one-on-one with business                  11 clients to help them negotiate                  12 environmental issues, I've never lost sight                  13 of the fact that people's well-being and                  14 livelihood depends on work that I do.                  15 We all know how blessed we are in                  16 Alabama with all of our plentiful and                  17 natural resources. From our mountains to                  18 our coastline and everywhere in between,                  19 our waters, land, and climate offer us                  20 opportunities for jobs and recreation.                  21 They form the foundation for industry and                  22 tourism and the quality of life that is                  23 unsurpassed anywhere in the world. It is</p>

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<p>1 our stewardship of these blessings that                  2 will determine the quality of our                  3 children's and our grandchildren's                  4 prosperity for decades to come.                  5 In addition to our natural resources,                  6 however, we are even more blessed with the                  7 quality of the men and women who work for                  8 the Department of Environmental Management.                  9 I've worked with the ADEM staff for sixteen                  10 years, and I have also worked over the                  11 years for environmental departments                  12 throughout the southeast, including our                  13 neighboring states and EPA Region 4. Based                  14 on my experience, I can assure you what you                  15 already know, which is the people of ADEM                  16 are second to none in their dedication,                  17 professionalism and their technical                  18 expertise.                  19 If I am discouraged at all, it is                  20 because of how little credit ADEM gets for                  21 the job that it's doing. ADEM has the                  22 ability to be an effective force for                  23 economic development and environmental</p>	<p>1 more effectively use and sustainably (sic)                  2 use our natural resources for reuse and                  3 recycling, how we meet and maintain our                  4 water quality standards and how we minimize                  5 the effects of stormwater runoff. How we                  6 address these issues and other issues to                  7 come will, in no small way, have a                  8 significant impact on the quality and                  9 breadth of the future that Alabamians can                  10 look forward to.                  11 As the Commission has laid out in its                  12 Strategic Plan, we begin to address these                  13 issues by keeping an open flow of                  14 communication with stakeholders so that the                  15 Commission and the Department can be                  16 responsive to Alabamians' needs. And by                  17 stakeholders, I don't just mean the                  18 regulated community, industry and                  19 municipalities, but also citizens who                  20 depend on us to protect their environment                  21 and their livelihood. And elected                  22 officials as well -- those who have to                  23 respond to both citizens and industry.</p>
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<p>1 stewardship in Alabama and deserves to be                  2 recognized for being a strong player in the                  3 State.                  4 I tell people that we're all yoked to                  5 the same wagon -- industry, workers,                  6 citizens, government, big mules and little                  7 mules, too -- and if we're going to move                  8 forward, we have to pull in the same                  9 direction. ADEM can and should be not only                  10 part of the team that moves Alabama                  11 forward, but recognized as a valuable                  12 member of that team.                  13 Of course, our ability to be effective                  14 members of that team is dependent on the                  15 Commission and the Department working                  16 together to effectively anticipate                  17 challenges, establish goals and take the                  18 necessary steps to achieve our joint vision                  19 of promoting a safe, healthful and                  20 productive environment for all Alabamians.                  21 Make no mistake about it. There are                  22 significant challenges facing us, including                  23 more stringent air standards, how we can</p>	<p>1 When the Governor or the Legislature wants                  2 to know what we're doing to respond to                  3 Alabama's present needs and her future                  4 challenges, we are expected to have an                  5 answer -- a comprehensive, unbiased                  6 answer -- that Alabamians can rely on.                  7 We will also address the challenges                  8 facing us by making effective use of the                  9 Department's professional staff. We also                  10 agree on ADEM's professionalism and                  11 dedication, but how do we maintain and                  12 build on that professionalism and                  13 dedication? We do it by encouraging every                  14 member of the team in their work, by                  15 sharing and living the vision and by                  16 seeking input from everyone in the                  17 Department on how to better achieve our                  18 goal of making Alabama a better place to                  19 live and work and by encouraging our young                  20 people as we offer opportunities for                  21 advancement and professional fulfillment.                  22 By doing these first two things, we                  23 place ourselves in a better position to</p>

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<p>1 enhance our relationship with our external 2 stakeholders -- citizens, industry, 3 business, municipalities, elected officials 4 at all level of government. We need to 5 better understand their needs so that we 6 can better serve them and be recognized as 7 an asset that improves their lives and 8 businesses and their constituents' lives 9 and businesses. Too often people outside 10 the Department -- citizens, industry, 11 government -- see ADEM as a hindrance 12 rather than a help. It doesn't have to be 13 that way. 14 Of course, none of this can be 15 accomplished without efficient and 16 effective Department operation. We will 17 never have all of the resources that we 18 want, but we can establish goals and use 19 our management structure and information 20 technologies in a way that will empower and 21 inspire people at ADEM to not only do all 22 that we can for the people of Alabama, but 23 to find new and better ways of doing it.</p>	<p>1 other state regulatory agencies? How can 2 we learn from their success? How can we 3 learn from their mistakes? ADEM has the 4 ability to be the premier state 5 environmental agency in the United States, 6 but to achieve that, we must work together, 7 not just within the Commission and the 8 Department, but within the state, amongst 9 all the stakeholders, and listen to each 10 other's goals and aspirations. 11 I know that you will have individual 12 questions that you want to ask, but the 13 time I have remaining, I would like to 14 briefly touch on a couple of the specific 15 issues that the Commission has identified 16 in its draft 2010 Strategic Plan. 17 First, I cannot overemphasize the 18 necessity of promoting and expanding on 19 input from the public. It will come as a 20 shock to no one if I say that the public, 21 our stakeholders, often mistrust the 22 Department and question its effectiveness. 23 As I said, it doesn't need to be this way.</p>
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<p>1 In saying this, I do not mean to imply 2 that I have a plan that I want to 3 implement. Yes, I have worked with the 4 Department for years, but when it comes to 5 specifics, there's a wealth of knowledge 6 and experience I would be foolish not to 7 avail myself of. John Hagood has done a 8 great job as Acting Director, and his 9 advice and counsel, along with other 10 division heads, will be invaluable in any 11 transition. 12 There are two things that I do like to 13 think that I have learned over -- by my 14 age. The first is to listen to people, 15 those with experience and those with fresh 16 ideas as well, and to bring people together 17 to listen to each other so that we can all 18 solve problems together. The second is not 19 to reinvent the wheel. Most problems we 20 face have been faced before. How did 21 others handle them? How did similar -- How 22 were similar issues handled by other state 23 agencies? How were those issues handled by</p>	<p>1 There are numerous opportunities for 2 us to get out and spread the message about 3 what ADEM is doing and gather the public 4 input on how to do it better. In my mind, 5 I see every Department employee as a 6 spokesperson, as well as an attentive ear. 7 We need to take advantage of the 8 opportunities we have when we're talking to 9 the people of Alabama and look for more 10 opportunities to expand our outreach. 11 By talking with and listening to the 12 public, ADEM has an opportunity to enhance 13 its image and its mission. When an 14 inspector is seen as someone who can help a 15 business maintain compliance rather than 16 someone simply looking to write a ticket, 17 business sees us as an asset rather than a 18 hindrance. When we take our senior staff 19 -- make our senior staff available to our 20 institutions of higher learning -- Auburn, 21 Alabama, Tuskegee, UAB, Miles College, 22 Samford, University of South Alabama and 23 others -- as guest lecturers to engineering</p>

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<p>1 and environmental science and laws                  2 students, we not only have enhanced our                  3 reputation with the faculty and the                  4 students, but we have an opportunity to                  5 cause our next generation of leaders to                  6 consider the Department as a career                  7 opportunity. We follow-up with -- When we                  8 follow-up with those who have been in here                  9 in this building for business with the                  10 Department and ask them about their                  11 experience and how we might do it better,                  12 we gain a wealth of information, while at                  13 the same time demonstrating our commitment                  14 to our stakeholders.                  15 These are just some ideas, of course                  16 -- the ones that need to be discussed                  17 before they would be implemented or even                  18 discarded -- and there are many more ideas                  19 out there. The point is, we need to be                  20 constantly looking for opportunities to                  21 reach out to the public.                  22 Of course, a natural outgrowth of                  23 increased input from the public is improved</p>	<p>1 and may even allow us to step over                  2 boundaries. The Commission is grappling                  3 with many other issues, of course --                  4 funding, environmental justice, a                  5 commitment to science-based standards and                  6 compliance, to name just a few -- and I                  7 know that you will want to be covering some                  8 of those. But let's not forget the new                  9 emerging environmental challenges that face                  10 us. Whether it's climate change, stricter                  11 ozone standards, new construction                  12 stormwater requirements, nano pollutants,                  13 or as yet unseen challenges, the Commission                  14 has tried to stay abreast of the issues,                  15 anticipating the needs and informing itself                  16 of the facts. We need to continue to keep                  17 our eye on the horizon.                  18 In closing, I would like to say that                  19 I've been blessed through education,                  20 experience and opportunity with skills that                  21 will allow me to provide ADEM with the                  22 leadership it needs to be a strong catalyst                  23 for growth in Alabama, improving the lives</p>
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<p>1 relationships with the public and the                  2 Legislature. If we communicate with our                  3 stakeholders, we cannot help but improve                  4 our relationships. It's a basic part of                  5 human interaction.                  6 With respect to the State Legislature,                  7 there are a lot of people I've worked with                  8 over the years who have a wealth of                  9 experience with our state representatives                  10 and senators. I trust that they will                  11 continue to avail me of their wisdom. I do                  12 believe, however, that relationships are                  13 better forged when they're not based on an                  14 immediate need. I would like to see the                  15 Department going to individual legislators                  16 all during the year, not just during the                  17 Legislature session. We should be talking                  18 to them about issues of concern and how the                  19 Department can better serve their                  20 constituents. In this way, we establish                  21 and maintain open lines of communications                  22 and relationships that will better serve                  23 all parties when issues arise in the future</p>	<p>1 of all its citizens.                  2 I would like to serve the people of                  3 Alabama as ADEM Director, be part of                  4 Alabama's growth and prosperity, and to                  5 help make Alabama a better place for us all                  6 to live and work.                  7 I appreciate having the opportunity to                  8 be here today.                  9 COMMISSIONER ARCHIE: Thank you,                  10 Mr. Montgomery. Commissioner Phillips?                  11 COMMISSIONER PHILLIPS: Thank you,                  12 Mr. Montgomery.                  13 Could you answer for me, do you                  14 currently, or at anytime in the past, have                  15 you had any business or personal                  16 relationships with any member of this                  17 Commission?                  18 MR. MONTGOMERY: I have talked to Mr.                  19 Wainwright and Dr. Lester on the phone, and                  20 I have met with Mr. Brown, and I live and                  21 see Mr. -- I live in Birmingham, and I                  22 see Mr. Brown's parents socially from time                  23 to time.</p>

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<p>1 COMMISSIONER ARCHIE: Commissioner Brown?                  2 COMMISSIONER BROWN: What primary areas for                  3 change within the operation of the agency                  4 would you focus on should you become                  5 Director of ADEM based on your experiences                  6 interacting with the agency?                  7 MR. MONTGOMERY: I think one of the principle                  8 areas that I would want to look at -- and                  9 keeping me in mind, there -- it's based on                  10 discussions that I've had with people, and                  11 the position may call on other areas that                  12 need to be refocused instead, but I often                  13 hear from the business community, as well                  14 as the environmental community, the need to                  15 address the NPDES program. Of course,                  16 there is a petition before the -- before                  17 EPA concerning the NPDES program, and I                  18 understand that a response is being                  19 formulated for that. I've read the                  20 petition; I haven't studied all of the                  21 issues that are associated with it, but I                  22 think that that is going to be a -- an                  23 early thing that needs to -- needs to be</p>	<p>1 in terms of our funding. Funding for all                  2 agencies of government is being hit these                  3 days. We -- They are challenging from the                  4 standpoint of -- as I said, ADEM does not                  5 have the best reputation within the state,                  6 not just within the environmental                  7 community, but also within business. I                  8 believe that we probably need to be first                  9 focusing on how we can look at what ADEM is                  10 supposed to be doing and how we can be                  11 doing it better and just slowly build that                  12 trust and the esteem that ADEM has -- or                  13 should have within the State.                  14 They are exciting times because there                  15 is such opportunity here within the State                  16 of Alabama. I'm -- It's not just a                  17 throw-away phrase to say that I think that                  18 ADEM could be the premier state regulatory                  19 agency in the United States because we have                  20 resources to work here with. Here in                  21 Alabama, we have people that are dedicated                  22 to the State of Alabama, and I believe that                  23 we can work with all the people at ADEM,</p>
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<p>1 addressed. There are other areas. We have                  2 Clean Air Act compliance that is coming up.                  3 EPA is going to be changing ozone                  4 standards. In one way or another, we need                  5 to be -- I don't know whether the numbers                  6 that have been mentioned will be the final                  7 ones, but they are sure to get -- become                  8 more strict. That is something that we                  9 will need to -- need to address. And I                  10 think that's it. I've worked with the ADEM                  11 staff over the years in most of the program                  12 areas. I have a good -- a good                  13 relationship with them, and I believe that                  14 working -- working with them to identify                  15 those -- working with the Commission to                  16 identify the issues that are most concerned                  17 to the Commission will be -- help us focus                  18 where we need to be going and where we need                  19 to be spending our energies first.                  20 COMMISSIONER BROWN: You said these are                  21 challenging times and exciting times. Can                  22 you give me examples of both?                  23 MR. MONTGOMERY: Well, challenging, certainly,</p>	<p>1 work within the -- with the industries,                  2 work with the citizens in Alabama and say,                  3 "How are we going to carry ourselves                  4 forward. We're not going to be like                  5 California. We're not going to be like                  6 other states." But for Alabama, I think                  7 that we have an opportunity here to show                  8 that we can be good stewards of our                  9 environment, our natural resources, while,                  10 at the same time, working hand-in-hand with                  11 our industries and with our businesses to                  12 promote and enhance everyone's livelihood                  13 here in Alabama.                  14 COMMISSIONER BROWN: A couple of follow-ups.                  15 Number one, somebody that's worked as you                  16 have in this arena for many years, do you                  17 have specific proposals for regulatory or                  18 policy changes that you feel need to be                  19 enacted?                  20 MR. MONTGOMERY: There are certain things that                  21 I have in my mind that I would like to --                  22 like to discuss. There are a lot of                  23 things -- there was a -- Several years ago,</p>

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<p>1 there was a study done on enforcement.                  2 There were several recommendations that                  3 were made as part of that; some things were                  4 considered more workable than others, so we                  5 -- I don't know everything that I would --                  6 everybody would bring to the table. I                  7 would want to discuss ideas and say is this                  8 a -- is this a good idea? Is this one --                  9 Is this somewhere where we can work                  10 together or does there have to be some                  11 fundamental change before we can -- before                  12 we can work in that way and to address                  13 this, get a way. So, yes, there's a whole                  14 bunch of ideas -- some of them are                  15 innovative ideas and they may not                  16 necessarily apply. Once they start talking                  17 to people who are knowledgeable -- and we                  18 have a bunch of people here in this                  19 Department who are very knowledgeable, and                  20 before I would say, Oh, I'd like to do this                  21 or I'd like to do that, I'd like to be                  22 talking about what are the -- what pitfalls                  23 is this work for.</p>	<p>1 their competitor across town or on the                  2 other part of the state -- if they are not                  3 following the regulations, then the playing                  4 field will be equal. That is -- That's                  5 important for everybody there. We're going                  6 to -- we'll certainly be looking at the                  7 stormwater issues that have to -- EPA has                  8 already been saying things about                  9 stormwater, looking at the Shelby County                  10 Stormwater Program, looking at the                  11 Jefferson County MS4 Stormwater Program;                  12 how are we going to be addressing that, how                  13 are we going to use our resources to be                  14 more -- to be more effective and to meet                  15 those needs?                  16 COMMISSIONER ARCHIE: Commissioner Wainwright?                  17 COMMISSIONER WAINWRIGHT: Mr. Montgomery, in                  18 your experience with the agency and the                  19 Commission, I know you've had an                  20 opportunity -- or need for information from                  21 us at different times. In your experience,                  22 how do you see we might improve delivery of                  23 accurate and up-to-date information?</p>
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<p>1 COMMISSIONER BROWN: And it's not that we're                  2 asking you to put forth a proposal now, but                  3 I think the public would like to know what                  4 some of those ideas are if you have them.                  5 MR. MONTGOMERY: Well, particularly -- and I                  6 mentioned it in my talk -- when we have                  7 inspectors go to our industries, to work                  8 with them, to be knowledgeable about the                  9 issues that the industry is facing and to                  10 be able to help them with compliance and                  11 not just be there to write a ticket. How                  12 do we -- How do we come across as being                  13 helpful while at the same time -- industry                  14 is looking for -- business and industry is                  15 looking for continuity and consistency.                  16 That's how you -- how you plan for the                  17 future, and when you plan for the future,                  18 you can plan your economic grown. If there                  19 is not consistency, if they do not know how                  20 ADEM is going to react in a certain                  21 situation, then that causes uncertainty on                  22 their part. They also need to know that if                  23 they are following the regulations, then</p>	<p>1 MR. MONTGOMERY: The availability of                  2 information and speed with which it's                  3 acquired has improved over the years, and                  4 we -- the Department has realized that this                  5 is a benefit not only for citizens' groups                  6 who want to have oversight, but also for                  7 industry who need to know about compliance                  8 issues and also avail themselves of the                  9 records that are here. Certainly I think a                  10 lot of that has been based on information                  11 technology. I think that there is an                  12 opportunity to make better use of that and                  13 to explore that with the opportunity --                  14 explore those opportunities so that people                  15 can have that. One of the things, I know                  16 there's been some recent changes in the                  17 ADEM website. One of the things that I                  18 think would be a good idea -- and it'll                  19 probably get shot down by the IT people --                  20 is to have a part of the ADEM website that                  21 says -- to have a place for you to click on                  22 that and take input from people and say how                  23 can we improve the website, how can we --</p>

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<p>1 another thing that -- a lot of times people                  2 come here to ADEM to get information, to                  3 look at records. Everybody's coming                  4 through the door. If we have information                  5 that no longer -- whether e-mail or what                  6 have you, to ask them how was your                  7 experience, what can we be doing better                  8 here. A lot of times when I do a file                  9 search these days, I don't come down here                  10 to do a file search. It's not that                  11 expensive to copy it. By the time you                  12 drive to Montgomery, go through the file                  13 and say I want this, this and this, it's                  14 easier if you just say how big is the file                  15 and how much to copy the whole thing, and                  16 they say, Well, it'll be about 2, \$300.00                  17 bucks, well, that's cheaper than the drive                  18 down to -- down to Montgomery, and I get it                  19 on a disk. That's great. So there's lots                  20 of things that have been improved, and I                  21 think that we need to constantly improve.                  22 I may have an idea about what needs to be                  23 done, but I've only got one idea, and I get</p>	<p>1 advisory boards for Jefferson County                  2 Environmental Services, which has had                  3 environmental constituents as well as                  4 business constituents. With all humility,                  5 I like to think that I have a reputation                  6 with all groups as somebody that they can                  7 talk to and that they can rely on. When I                  8 say something, I expect it to be taken at                  9 face value -- I expect it to be taken at                  10 more than face value. When I say                  11 something, I expect the person I say that                  12 to to have confidence that they can take it                  13 to the bank. I've worked hard all my life                  14 to maintain that, and I wouldn't throw it                  15 away for anything in the world. This is --                  16 A part of this trust is where we start                  17 building. Yes, there is a lot of mistrust                  18 between people who see themselves from                  19 different areas, but I also know within the                  20 business community and the environmental                  21 community there is a lot of shared concerns                  22 and there's a lot of people who are willing                  23 to work together and that we can -- we can</p>
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<p>1 lots of ideas, but I'm just one person, and                  2 a lot of my ideas get shot down. So I have                  3 an idea, I bring it out, and somebody says,                  4 Yeah, that's right. We can do that. Or                  5 we've got people that say, Well, here are                  6 the problems here, so we work it through                  7 and say this is how we can do it better.                  8 COMMISSIONER ARCHIE: How do you plan to                  9 address the interests and goals of both                  10 industrial business entities and                  11 environmental groups on the operation of                  12 the agency? In your review who are the                  13 clients of the agency and how does the                  14 agency address competing interests of those                  15 clients?                  16 MR. MONTGOMERY: Well, I have -- Since I've                  17 been back in Alabama, I've worked with the                  18 environmental community and I've worked a                  19 lot with the business community. I've been                  20 chair of the Birmingham Chamber of                  21 Commerce's Environmental Committee, the                  22 Cahaba River Society sits on that                  23 committee. I've also been chair of</p>	<p>1 do that. We can work together. We need to                  2 identify our shared goals. In many ways, I                  3 don't think that we are working at anything                  4 that is contrary to anyone's particular                  5 interest. We all want Alabama to be a                  6 better place to live and work, and that is                  7 -- we have jobs here. They're dependent on                  8 the -- maintaining and the judicious use                  9 and replenishment of our natural resources,                  10 and we want -- people in Alabama want to                  11 have jobs and they want to have good                  12 quality of life, and I think that we can                  13 all move together in that way.                  14 COMMISSIONER ARCHIE: Commissioner Lester?                  15 COMMISSIONER LESTER: I have two questions                  16 There's over 600 employees here at ADEM.                  17 What was your -- What would be your                  18 management style to keep morale problems                  19 down without micro-managing every little                  20 thing in the Department?                  21 MR. MONTGOMERY: I've come into several                  22 situations where there was an existing                  23 structure that I was brought in to manage.</p>

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Page 97	<p>1 When I managed the water and wastewater 2 plants in High Point, North Carolina, I had 3 75 people that answered to me. We had a 4 \$12,000,000.00 budget, and we had a lot of 5 things that were going on, but being able 6 to understand those was very important, and 7 a lot of times when I've done that, I've 8 prepared myself by relying on those who 9 have been there and done that. It's like I 10 tell an industry. If I go into an industry 11 and they ask me to come and talk to them on 12 hazardous waste issues, one of the first 13 things I say as a consultant is you're 14 going to understand your business better 15 than I will, but I'm here to learn from you 16 and to offer more. I like to have open, 17 encouraging dialogue between those that I 18 work with, and I would encourage the same 19 thing out of the division heads in their 20 relationships with the staff. We have a -- 21 need to foster a sense of being on the same 22 team and a sense of professionalism. 23 Professionalism, I think, is -- Somebody</p>	Page 99	<p>1 people, but I like to find ways for 2 positive praise and encouragement, and like 3 I said, I expect that whenever I say 4 something to somebody, that they will know 5 that they can take it to the bank -- that's 6 my responsibility to make that happen -- 7 and I demand to be trusted and taken at my 8 word. I've got to show people that they 9 can trust me and take me at my word. 10 COMMISSIONER LESTER: Thank you. 11 What does the term "environmental 12 justice" mean to you and what 13 responsibility does ADEM have with 14 relationship to environmental justice? 15 MR. MONTGOMERY: I came of age in the 60's. 16 The Civil Rights movement was probably one 17 of the defining events of my growing up. 18 I've lived and worked in developing 19 countries where disparities was between the 20 haves and have nots, it seems like as it is 21 here. I've worked with the State of 22 Mississippi's Bureau of Pollution Control 23 back when we were trying to implement</p>
Page 98	<p>1 said that professionalism has three 2 particular components to it -- one is 3 education, two is organization; the other 4 is a sense of public service. People that 5 are here working at ADEM, I believe for the 6 most part, are here because they want to be 7 working for the people of Alabama and they 8 want to be doing something that benefits 9 this State. We want to foster more 10 opportunities through professional 11 government. We need to have people ready 12 to step forward when senior staff retires. 13 That's certainly something that the 14 Department is going to be -- going to be 15 facing, and we need to have people that can 16 step up, and professional -- professional 17 recognition and opportunities can be a 18 great incentive to people. You may not be 19 able to offer them the kind of salary that 20 they would like to have, but the 21 opportunity for professional growth is 22 something that will keep people on and 23 inspire them. I don't blow smoke at</p>	Page 100	<p>1 environmental regulations in the mid 80's. 2 I've seen injustice, and I've seen 3 environmental injustice in particular. 4 There's no question in my mind it exists 5 and people's lives were affected by it. 6 That said, environmental justice is not 7 always apparent, and even when it is 8 apparent, it can be a very attractable 9 issue. EPA's had environmental justice 10 policies for years and still struggle to 11 implement them. In my opinion, in many 12 cases it's not a conscious decision on 13 anybody's part. It may not even be 14 characterized by one (inaudible) being 15 insensitive to another. In my experience, 16 disputes over environmental justice are 17 often the result of a failure of people at 18 one predominate and political level to 19 understand the needs and necessities of 20 people in a different position. Empathy -- 21 walking in another person's shoes -- is 22 hard to practice and harder, still, to 23 teach. Often it happens in the name of</p>

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<p>1 economic progress. Jobs or just keeping                  2 sewer systems -- customers' rates low, and                  3 you end up forgetting about somebody that's                  4 downstream or downwind and forget about                  5 somebody that you aren't -- that you don't                  6 empathize with. It will not be an issue --                  7 problem to get beyond. I have no illusions                  8 about that. I predict that environmental                  9 injustice will remain an issue for years to                  10 come and will be something that we will                  11 struggle with for a long time, but it's                  12 worth the struggle. I believe that Alabama                  13 can and should be on the forefront of that                  14 struggle. Having a Department of                  15 Environmental Management that is                  16 well-respected by the people for fairness                  17 and diligence will go a long way towards                  18 leaving that and addressing those concerns.                  19 I don't have a silver bullet. Sorry.                  20 COMMISSIONER LESTER: Thank you.                  21 COMMISSIONER ARCHIE: Commissioner Wainwright?                  22 COMMISSIONER WAINWRIGHT: Mr. Montgomery, our                  23 source of revenue comes from grants from</p>	<p>1 they're paying for. They don't want the                  2 fees being used to supplement the                  3 Department -- the Department budget or to                  4 be going to other programs that they're not                  5 related to. I agree with that concern, and                  6 there are various ways that we need to be                  7 looking at -- again, when we say innovative                  8 ways, those are -- innovations are things                  9 that have to be explored. I've worked with                  10 supplemental environmental projects over                  11 the years, worked with supplemental                  12 environmental projects in Alabama. That                  13 may be an opportunity, but I think that we                  14 need to be looking at how we're going to                  15 find innovative ways to -- if there's money                  16 left on the table -- federal money                  17 available that needs a matching grant or                  18 matching funds, is there an innovative way                  19 of doing that. There's various things out                  20 there that we may need to be looking at and                  21 to explore.                  22 COMMISSIONER WAINWRIGHT: Thank you.                  23 COMMISSIONER ARCHIE: I have the next</p>
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<p>1 EPA, fees and fines, and from the State                  2 Legislature. We continually find ourselves                  3 short on enforcement because we don't have                  4 the revenue to support it. What approaches                  5 would you take to getting it increased or                  6 adequate funding from all three of these                  7 sources?                  8 MR. MONTGOMERY: To the extent that we are                  9 relying on government monies, federal as                  10 well as state, these are hard times for all                  11 government sectors, and I'm not counting on                  12 any additional government monies coming                  13 down. We've seen a decrease in tax                  14 collections as a result of our financial                  15 downturn. The other -- The remaining                  16 handle that we can grab is our program                  17 fees, but I'm very concerned about wanting                  18 to reach out and use that as a way of                  19 supplementing the Department. The                  20 regulating community realizes that program                  21 fees are necessary -- they support program                  22 fees -- but they want to know that those                  23 program fees are going for the program that</p>	<p>1 question, and I believe you kind of touched                  2 on it a little bit, and it's actually                  3 really two questions, and I'm just going to                  4 ask it again.                  5 With so many counties in Alabama out                  6 of attainment for air quality measures, how                  7 would you direct the agency to take                  8 proactive steps to approach this problem?                  9 MR. MONTGOMERY: Air quality, as we have                  10 particularly with respect to ozone,                  11 although we do have particulates in the                  12 Birmingham area, and I think they're in                  13 other areas as well, but the changes, we're                  14 going to see more counties in                  15 nonattainment. Right now about 60% of the                  16 pollutants, as I understand it, are from                  17 stationary sources -- smokestacks -- and                  18 another 40% is from transportation. I know                  19 in Birmingham we have one of the highest                  20 commuter miles -- commuter miles per person                  21 of anywhere in the country. That's not an                  22 easy -- easy issue to address. We may or                  23 may not be able to address it through</p>

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<p>1 increased fuel efficiency through better                  2 cars -- I understand that we picked the                  3 low-hanging fruit from that -- but at the                  4 same time, we do not -- we want to resist                  5 the urge to keep going after the stationary                  6 sources. We've been doing that to them for                  7 years. We need to be looking at the mobile                  8 sources and how we can do that. There                  9 are -- Somebody asked me one time, said,                  10 Are there any environmental issues that you                  11 don't feel like you can carry on about, and                  12 I said, Well, there are two things I don't                  13 feel real comfortable with -- one is                  14 radioactive waste and two is ozone                  15 reduction through transportation plants.                  16 They're very difficult issues, and I think                  17 they're going to be issues that we will end                  18 up working with the -- a lot with the                  19 particular counties and the local                  20 government as to how we're going to address                  21 this, and this -- I think it's going to be                  22 a lot of metropolitan areas all over the                  23 United States, so I think we're going to</p>	<p>1 effects of human activity on climate                  2 change. From what I've read, if you                  3 (inaudible) human-caused climate change,                  4 it's real, and if experts such as Dr. James                  5 Hansen are correct, the token approach                  6 is -- such as the Cap-and-Trade Bill that                  7 was passed in the House of Representatives                  8 are largely useless. The cost of                  9 addressing climate change would not be 50                  10 cents per month per household. Eliminating                  11 our reliance on carbon is going to be a                  12 significant change in how we use energy and                  13 the cost of the energy that we use. I                  14 can't say whether human-caused climate                  15 change is real or whether it's just the                  16 next Y2K. If it is real, I believe we need                  17 to be honest about what the costs are and                  18 seriously address those. We need to be                  19 telling people what it's going to cost to                  20 reduce carbon emissions. We need to --                  21 also need to ask whether anything we do is                  22 going to make any difference in trying to                  23 amend the (inaudible). Philosophically --</p>
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<p>1 have to be looking at how other people are                  2 addressing this and not just reinventing                  3 the wheel or thinking we can figure it out                  4 on our own. It's going to be a national                  5 problem, quite frankly.                  6 COMMISSIONER ARCHIE: What is your personal                  7 belief about climate change? Do you                  8 believe it should be a regulatory issue,                  9 and how would that influence your                  10 leadership of ADEM on this matter?                  11 MR. MONTGOMERY: How long do we want to go on                  12 about that?                  13 COMMISSIONER ARCHIE: Briefly.                  14 MR. MONTGOMERY: I understand the science                  15 behind climate change, and I believe that                  16 the scientists who are studying the issue                  17 are doing their best to present the facts                  18 as they understand them. I'm concerned,                  19 however, that there are many on both sides                  20 that want to spin the facts to suit their                  21 ideological positions. I don't believe                  22 that either side is willing to admit how                  23 little they know about the existence -- the</p>	<p>1 and this doesn't apply just to climate                  2 change -- but I believe that any regulatory                  3 change should be explained to the effect of                  4 the community so that they understand the                  5 reason behind the regulation, as well as                  6 the consequences to that regulation. Laws                  7 and regulations needed to address                  8 human-caused climate change will have a                  9 significant impact on all Americans, and I                  10 do not believe that socioeconomic costs                  11 associated significantly curtailing our                  12 reliance on fossil fuels have been                  13 adequately revealed. Neither do I believe                  14 that the need for incurring those costs has                  15 been adequately explained to the American                  16 people. Put another way, a lot of people                  17 said they want to stop global warming, but                  18 when you tell them their electricity cost                  19 is going to go up 40% or 50% or they're                  20 going to be paying \$4.00 or \$5.00 a gallon                  21 for gasoline, their sympathy for drowning                  22 polar bears tends to evaporate very                  23 quickly. That's a way of saying I don't</p>

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<p>1 know. I have -- People have been asking me                  2 climate change questions for years and                  3 manmade climate change questions for years.                  4 I follow the discussion. I think that                  5 there is -- if we're going to undertake                  6 that seriously, do that as a nation. It's                  7 not going to be a decision that's made just                  8 in Alabama, but if we're going to undertake                  9 it as a nation, we need to talk seriously                  10 about what the cost is and quit hiding our                  11 cards.                  12 COMMISSIONER ARCHIE: Commissioner Phillips?                  13 COMMISSIONER PHILLIPS: Mr. Montgomery, you                  14 mentioned earlier the NPDES program                  15 petition for removal of state authority.                  16 Based on what you have read -- and I know                  17 you don't know all the details -- but if                  18 you are the leader of this agency, how                  19 would you deal with that?                  20 MR. MONTGOMERY: I understand that a response                  21 is currently being formulated amongst the                  22 ADEM staff. There's a -- I believe it's                  23 somebody within the legal department</p>	<p>1 are raised as a part of the NPDES program                  2 may guide us in how we approach enforcement                  3 in other -- in other program areas as well.                  4 COMMISSIONER PHILLIPS: Thank you.                  5 COMMISSIONER ARCHIE: Commissioner Pierce?                  6 COMMISSIONER PIERCE: Mr. Montgomery, my                  7 question involves solid waste landfills and                  8 their closure. On more than one occasion,                  9 the Department has allowed situations to                  10 develop where landfill owners have not met                  11 obligations for reserve requirements for                  12 closure and post closure maintenance. How                  13 might you address the situation to assure                  14 that this does not remain a recurring                  15 problem?                  16 MR. MONTGOMERY: Well, I can't say that I have                  17 informed myself on that particular issue at                  18 this time; however, I think that, with any                  19 situation like that -- and this applies to                  20 many problems where if it's something that                  21 we have been doing in the past did not                  22 work, we need to understand why it did not                  23 work and to look for a solution that will</p>
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<p>1 coordinating that and then going to various                  2 of -- the other divisions to gather their                  3 input, and we'll see what those                  4 recommendations are.                  5 Two very general things that I would                  6 have to say is that if the allegations are                  7 not founded -- and from my reading of it, I                  8 think that some of them are sort of just                  9 thrown in for the heck of it -- then they                  10 need to be defended. But the ones that are                  11 founded, then corrections need to be made,                  12 and we need to diligently pursue those                  13 corrections with commitment. The ADEM                  14 staff needs to know that we're committed to                  15 those corrections, and the people of                  16 Alabama need to know that we're committed                  17 to making those corrections. As far as                  18 what they -- This is all part of deciding                  19 what we're -- how we present ourselves as a                  20 Department. Are we -- If we have an issue                  21 that we need to deal with it, everybody                  22 knows that we're dealing with it. And I                  23 dare say how we deal with the issues that</p>	<p>1 make it work. Oftentimes, however, the                  2 solution may be something that can be very                  3 draconian and very expensive, and you know,                  4 if that is how it has to be, that may be                  5 how it has to be. However, if our -- If                  6 the solution does look problematic, this is                  7 another one of those instances -- and I'm                  8 -- you've heard me mention this several                  9 times: I like to look and see what other                  10 people who are facing the same problem do,                  11 and if we would not -- we would want to                  12 address that and see how other states                  13 handle that and then approach the                  14 situation, but we need to understand what                  15 went wrong.                  16 COMMISSIONER PIERCE: Thank you.                  17 COMMISSIONER ARCHIE: Are there any other                  18 questions from the Commissioners?                  19 COMMISSIONER PHILLIPS: I have one.                  20 I've noted, as you've spoken to us,                  21 that you talk a lot about the Department                  22 and the people, and that's excellent. One                  23 thing that I didn't hear, though, is a</p>

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<p>1 clear understanding of the role of the                  2 Director and the role of the Commission.                  3 Give us your understanding of those two                  4 roles and how they work together.                  5 MR. MONTGOMERY: The Commission formulates                  6 policies, in addition to the judiciary                  7 function of hearing appeals to various                  8 enforcement actions. The Commission                  9 formulates environmental policy in Alabama.                  10 The Commission looks to the Director and                  11 the staff for information, and the Director                  12 responds to the needs of the Commission.                  13 Hopefully, it is something that we end up                  14 working together and can have a                  15 give-and-take. I would want to better                  16 understand what each one of your concerns                  17 are so that I don't just make an                  18 assumption, and that's a personal                  19 relationship sort of thing, to be able to                  20 have a free-flow of concerns and ideas.                  21 Once the Commission has established the                  22 direction -- has established what the                  23 Strategic Plan is for the Department, it is</p>	<p>1 months, and it doesn't have notes and                  2 highlights in it, it's not being                  3 effectively utilized, and I think that we                  4 need to have plans that we all agree on and                  5 are constantly thinking about how we can                  6 improve and how we take the next step.                  7 COMMISSIONER ARCHIE: Any other questions?                  8 (No response.)                  9 COMMISSIONER ARCHIE: Thank you,                  10 Mr. Montgomery. We appreciate you being                  11 here today, and we will be contacting you                  12 regarding our selection.                  13 MR. MONTGOMERY: I appreciate it. Thank you.                  14 (At which time a recess was                  15 taken.)                  16 COMMISSIONER ARCHIE: Okay. The hour is 1:30,                  17 so we're going to get back started again,                  18 and Mr. Brown, Commissioner Brown, will                  19 join us.                  20 At this time, Mr. Argo --                  21 MR. ARGO: Yes, ma'am.                  22 COMMISSIONER ARCHIE: -- we would like you to                  23 come before the Commission and give us your</p>
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<p>1 the Director who is -- sees that that plan                  2 is carried out and is the -- works with                  3 the -- works with the staff, directs the                  4 staff, understands where the bottlenecks                  5 are for implementing that plan, understands                  6 how we can enhance on the -- our successes                  7 and try to avoid the failures that will                  8 invariably come.                  9 One of the things, in talking about                  10 Strategic Plan, that I believe about a                  11 Strategic Plan, a Strategic Plan does not                  12 need to be a once-a-year sort of thing. It                  13 needs to be something that we are                  14 constantly thinking about updating. In my                  15 mind, a Strategic Plan, whether it's in the                  16 hands of the Director, whether it's in the                  17 hands of the Commission members, whether                  18 it's in the hands of the division heads and                  19 the other staff at ADEM, needs to be a                  20 document that ends up having highlights and                  21 notes written in the margins. If you've                  22 got a plan that's been around for several                  23 months -- not even a year, just a few</p>	<p>1 introductory comments and then we have                  2 questions of you.                  3 MR. ARGO: Thank you, ma'am.                  4 Madam Chair, Commission members, ADEM                  5 staff and others that are gathered here                  6 today, good afternoon, and thank you so                  7 much for the opportunity to be able to                  8 stand before you today as one of the three                  9 finalists for the Director's position.                  10 Before I begin my remarks, I can't                  11 help but share a quick story with you.                  12 It's -- Twenty-eight years ago, I was right                  13 out of Troy University and was sent to                  14 cover the brand-new ADEM Commission                  15 meeting. I was standing -- If it wasn't                  16 the very first meeting of this body, it was                  17 one of the first, and over my media career                  18 years, I spent a lot of time with Leigh                  19 Pegues. He spent a great number of hours                  20 trying to educate me on what his job was,                  21 what the Commission's job was and the                  22 challenges that lay ahead, so for                  23 twenty-eight years the folks have been</p>

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Page 117	<p>1 coming to Commission meetings, I actually</p> <p>2 started my media career in a body that was</p> <p>3 just right down the road from here. I had</p> <p>4 to share that with you.</p> <p>5 In many respects, a lot of things have</p> <p>6 changed over those three decades. The</p> <p>7 responsibilities have changed; they have</p> <p>8 increased dramatically. Staff has had to</p> <p>9 be added, working relationships are much</p> <p>10 more important than they used to be, so a</p> <p>11 lot has changed, but unfortunately, a lot</p> <p>12 has not changed. In reading everything I</p> <p>13 could get my hands on on the Internet,</p> <p>14 editorials, websites of constituency groups</p> <p>15 and others, it's pretty quick and pretty</p> <p>16 easy to see that the perceptions are still</p> <p>17 there that industry feels like that they</p> <p>18 are overly-regulated and they are -- their</p> <p>19 bottom lines are being interrupted, and you</p> <p>20 have constituency groups that believe that</p> <p>21 ADEM and the Commission is not aggressive</p> <p>22 enough in protecting the environment, and</p> <p>23 then you have municipal governments that</p>	Page 119	<p>1 in engineering. It's in communications,</p> <p>2 it's in public relations, it's in bridge</p> <p>3 building. That's what I do, and that's why</p> <p>4 I -- again, I appreciate the opportunity to</p> <p>5 stand before you today.</p> <p>6 In preparing for this opportunity, I</p> <p>7 spoke to a great number of people --</p> <p>8 current and former employees, industry</p> <p>9 reps, environmental group representatives</p> <p>10 and citizens -- and I tried to get as much</p> <p>11 information as I possibly could. One of</p> <p>12 the things that I learned that -- in</p> <p>13 talking with those groups is that I believe</p> <p>14 that you are looking for and I believe that</p> <p>15 you desperately need a new direction. You</p> <p>16 need someone that's going to do things</p> <p>17 differently than what's been done in the</p> <p>18 past. Now, that's not to say that what's</p> <p>19 been done in the past was wrong. I just</p> <p>20 think that we need to set a new direction.</p> <p>21 At least that's the indication that I'm</p> <p>22 getting from folks that I've spoken to.</p> <p>23 I want to share with you some of the</p>
Page 118	<p>1 believe that they're just -- that ADEM and</p> <p>2 the Commission's just waiting for an event</p> <p>3 so that somebody can issue a notice of</p> <p>4 violation, so a lot has not changed, but</p> <p>5 unfortunately, what we need to do today is</p> <p>6 talk about how we're going to change things</p> <p>7 for the better, how we're going to work</p> <p>8 together on how we're going to make sure</p> <p>9 that ADEM and the Commission meets its</p> <p>10 goals and its Mission Statements.</p> <p>11 I also would like to tell you that as</p> <p>12 a distant but regular observer of ADEM, I</p> <p>13 believe that those perceptions have</p> <p>14 everything to do with why I'm standing here</p> <p>15 today. You know, quite frankly, based on</p> <p>16 my knowledge and my experience, I really</p> <p>17 shouldn't have gotten this far. Most folks</p> <p>18 say that, you know, you need an engineer.</p> <p>19 You need a scientist. You need somebody</p> <p>20 who's going to have that technical</p> <p>21 background. Well, if that's the case, then</p> <p>22 obviously I would not be here. My</p> <p>23 background is not in science and it's not</p>	Page 120	<p>1 comments that were given to me. One</p> <p>2 employee said, "You know, Dean, ADEM really</p> <p>3 doesn't need a director. It needs a</p> <p>4 leader." Another employee said, "You know</p> <p>5 what we need is we need an advocate. We</p> <p>6 need somebody who's going to be the face of</p> <p>7 the Department, somebody who's willing to</p> <p>8 navigate the political circles, that's</p> <p>9 willing to get in the halls of the State</p> <p>10 house, that's willing to work with elected</p> <p>11 leaders at all levels, someone who's able</p> <p>12 to go in and meet with constituency groups</p> <p>13 that has the knowledge and -- but able to</p> <p>14 build the trust between ADEM, the</p> <p>15 Commission and those groups, that they will</p> <p>16 understand that the information that they</p> <p>17 are getting is accurate and that is</p> <p>18 relevant.</p> <p>19 The one that I like the most is that</p> <p>20 someone said that we need somebody who can</p> <p>21 be a communicator. Somebody who can go to</p> <p>22 the governor, someone who can go to the</p> <p>23 legislature, somebody that can go to the</p>

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Page 121	<p>1 city halls across the state and explain the                  2 resource needs of this Department, explain                  3 what the mission is and why it's getting                  4 more and more difficult to attain those                  5 Mission Statements and reach those goals                  6 without the resources that's desperately                  7 needed. And then someone also told me that                  8 what they need is they need somebody who's                  9 able to build stronger and healthful                  10 relationships between the constituency                  11 groups and ADEM. That's what I do.                  12 Now, I also know that environmental                  13 management knowledge is important to this                  14 Commission. I also understand that I need                  15 to express to you what I do know about                  16 environmental management and environmental                  17 issues. I want to call your attention to                  18 my resume. I mistakenly, as an oversight,                  19 forgot to tell you about one thing. I                  20 currently serve on the National League of                  21 Cities' Energy, Environment &amp; Natural                  22 Resources Committee. I neglected to put                  23 that on my resume, and I do apologize for</p>	Page 123	<p>1 I also want to talk to you for just a                  2 second about my experience through the City                  3 of Prattville. In my fourteen years of                  4 being on the city council, we've had a few                  5 incidences in Prattville where ADEM folks                  6 have had to come in and talk to us a little                  7 bit and tell us what we need to do a little                  8 bit differently and how to clean up a                  9 couple of things, and for that, I want to                  10 apologize on behalf of the city, but I also                  11 want to tell you that that is one of the                  12 great things that I have learned through                  13 all of my discussions with folks, is that                  14 ADEM is viewed by a lot of people,                  15 including municipals, as an agency that is                  16 willing to help. It's not just an                  17 enforcement agency, and for that, I want to                  18 thank you.                  19 Your 2009 Strategic Plan, Missions and                  20 Goal statements, very important, but                  21 there's one recurring theme that runs                  22 through just about every single goal, and                  23 this is the importance of communication,</p>
Page 122	<p>1 that. So from a national level, I'm used                  2 to meeting with mayors and city council                  3 members from all over the country,                  4 discussing issues that are going on in                  5 their states and what's going on in                  6 Alabama. But I did put on my resume the                  7 fact that I am a member of the Alabama                  8 League of Municipalities' Committee on                  9 Energy, Environment &amp; Natural Resources; as                  10 a matter of fact, I'm the vice chair of                  11 that committee, and next year I'm scheduled                  12 to be the chair. So at least annually, as                  13 a committee, we meet with ADEM personnel.                  14 We talk about the issues and the policies                  15 and the regulations that are in place and                  16 how those meld and jell with the league's                  17 positions on what the league is going to do                  18 as far as legislation is concerned, and                  19 it's a great opportunity for us from the                  20 municipal side to be able to listen to ADEM                  21 staff on what's happening and be able to                  22 understand where ADEM and the Commission is                  23 coming from.</p>	Page 124	<p>1 and again, that's why I'm here today.                  2 That's my expertise.                  3 Department personnel, you list that as                  4 one of your goals. Department personnel,                  5 industry, environmental groups, municipal                  6 governments, the governor, the Legislature                  7 -- all of these groups, I believe, will                  8 support ADEM and the Commission. They will                  9 listen to you. They will support you.                  10 They will also try to respond as best as                  11 they can to your request for resources and                  12 they'll feel comfortable with the direction                  13 that the Commission and ADEM is going in if                  14 there is open, honest and pure                  15 communication between you, the Department                  16 and your constituency groups.                  17 I also believe that the Commission                  18 will be effective and responsive when you                  19 have verifiable, scientific, relevant and                  20 timely information on which to base your                  21 decision. You have to have that                  22 information. You have to be able to rely                  23 on it, count on it to be accurate before</p>

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Page 125	<p>1 you make a decision, and I think that the</p> <p>2 Director has to lead that charge.</p> <p>3 The work environment at ADEM will be</p> <p>4 high-performing, efficient and effective</p> <p>5 when the Commission, the Director, the</p> <p>6 Department staff, they all work together to</p> <p>7 have a unified, clear and understandable</p> <p>8 vision for everyone to follow and then, of</p> <p>9 course, the resources necessary to do the</p> <p>10 job that you've charged them with.</p> <p>11 Stakeholders will accept and they will</p> <p>12 understand ADEM's positions, intentions and</p> <p>13 the challenges when they have clear and</p> <p>14 honest information given to them when they</p> <p>15 meet with you as a body and when they meet</p> <p>16 with the Director on the staff. They have</p> <p>17 to have that information. There has to be</p> <p>18 a new level of trust forged, and I think</p> <p>19 the Director has to set the tone for that</p> <p>20 direction. And, conversely, I think that</p> <p>21 ADEM will only be sensitive to</p> <p>22 stakeholders' positions when they get that</p> <p>23 same trust back from the stakeholders.</p>	Page 127	<p>1 build. I have a very long history of</p> <p>2 building, strengthening and maintaining</p> <p>3 legislative relationships. Every single</p> <p>4 job that I have had since I left Troy</p> <p>5 University has been something to do with</p> <p>6 governmental affairs, whether it was from</p> <p>7 the outside as a reporter, whether it was</p> <p>8 from the inside as a lobbyist or whether it</p> <p>9 was from someone who had to work on behalf</p> <p>10 of a state agency. I've worked for two</p> <p>11 state agencies -- ADECA and the State</p> <p>12 Department of Education -- so I have been</p> <p>13 around governmental affairs my entire</p> <p>14 professional career. I have a</p> <p>15 long-standing, strong relationship with the</p> <p>16 Governor, with -- I won't say all, but just</p> <p>17 about most of the premier players in the</p> <p>18 gubernatorial race right now. I already</p> <p>19 have a relationship with them. The Alabama</p> <p>20 Legislature, I know probably right now,</p> <p>21 given the fact that they've had a little</p> <p>22 bit of turnover in the last year, probably,</p> <p>23 I have a relationship with probably 125 out</p>
Page 126	<p>1 I've got nearly thirty years of</p> <p>2 communication, governmental affairs and</p> <p>3 management experience and fourteen-plus</p> <p>4 years of public service experience on which</p> <p>5 to draw in order to perform this job. I</p> <p>6 think I'm uniquely qualified to do this</p> <p>7 job. I think that what you're looking for</p> <p>8 is someone that has the background that I</p> <p>9 have, and I want to tell you why. Your</p> <p>10 Mission Statement, Assure for all Citizens</p> <p>11 a Safe, Healthful and Productive</p> <p>12 Environment, that is absolutely</p> <p>13 appropriate. I think it's attainable, but</p> <p>14 it's very challenging, especially given the</p> <p>15 fact that each year you have less and less</p> <p>16 resources with which to work. But I also</p> <p>17 want to tell you this: The reason that I'm</p> <p>18 the best person for this job is that my</p> <p>19 background, my experience, the</p> <p>20 relationships that I have already forged</p> <p>21 over my professional career will be</p> <p>22 advantageous to ADEM because I already have</p> <p>23 in place what others are going to have to</p>	Page 128	<p>1 of the 140 members of the Legislature</p> <p>2 because I've had to build that because of</p> <p>3 my previous employment. That will be</p> <p>4 helpful to this Department and especially</p> <p>5 to the Commission, because I already have</p> <p>6 those relationships.</p> <p>7 And, also, from the media being able</p> <p>8 to get inside and be able to talk to</p> <p>9 legislators and the Governor and being able</p> <p>10 to figure out where they're coming from, I</p> <p>11 have a unique perspective there as well.</p> <p>12 I have a lot of experience managing</p> <p>13 budgets and personnel. Practically every</p> <p>14 position that I've held, I've had to either</p> <p>15 supervise a staff or I've been responsible</p> <p>16 for employees, whether it was with the</p> <p>17 media, whether it was with ADECA, State</p> <p>18 Department of Education, whether it was</p> <p>19 with the Alabama Education Association or</p> <p>20 with energy groups. I've had the</p> <p>21 responsibility of maintaining and</p> <p>22 developing budgets. And, of course, my</p> <p>23 responsibility with the City of Prattville,</p>



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<p style="text-align: right;">Page 129</p> <p>1 we have a little over 400 employees there,                  2 a budget of about \$33,000,000. I'm chair                  3 of the finance committee, so I know where                  4 just about every dime of city money is or                  5 where it's supposed to go, so I have a                  6 very in-depth knowledge of budgets and                  7 personnel.                  8 I also have a long history of being a                  9 strong leader as well. I've been on the                  10 council for 14 years. I've been the                  11 president of the city council for three                  12 straight terms. They have elected me as                  13 their leader, and I believe that I've                  14 earned their trust and the right to serve.                  15 We've also worked on a number of                  16 public policy issues, and public policy                  17 issues are always difficult because the                  18 folks that are on the opposite side usually                  19 have different opinions but they have                  20 deeply-held views on how things ought to                  21 be, so you have to be a leader; you have to                  22 be able to work with those groups, not just                  23 shut them out, not just cut them off, but</p>	<p style="text-align: right;">Page 131</p> <p>1 television station in Pensacola, Florida,                  2 so I know how they work, I know how they                  3 operate, I know what they need, I know                  4 their deadlines, I know that when they want                  5 to come and interview you, it's kind of                  6 like, you know, 60 Minutes. When Dan                  7 Rather shows up at your door, it's not                  8 going to be a good day. But I know how to                  9 work with the media. I know that they --                  10 They understand that I know how they work,                  11 so I have an edge that others may not have.                  12 And then last I want to talk to you a                  13 little bit about the employees of ADEM.                  14 You are very blessed -- I know you know                  15 that -- from top to bottom with top                  16 quality, highly competent officials and                  17 staff and personnel, and they don't need                  18 somebody to walk around and tell them that                  19 they're not doing something correctly.                  20 What they need is somebody who's going to                  21 be out beating the bushes, finding them the                  22 resources that they need to do their job,                  23 and I'm the guy to do that.</p>
<p style="text-align: right;">Page 130</p> <p>1 understand where they're coming from and                  2 know that they believe just as much as what                  3 they believe is what I believe, so I've got                  4 issues with -- or I have experience with                  5 public policy issues.                  6 Landfills, clean air, clean water --                  7 we've dealt with all of those at the city                  8 level, so I have that knowledge as well.                  9 Constituency groups. Constituency                  10 groups can be a great resource, but they                  11 have to trust you. They have to be able to                  12 know that what you're telling them is the                  13 truth, that you're just not -- you're just                  14 not placating them, you're just not trying                  15 to get them out the door. I have                  16 experience in making sure that they                  17 understand that I'm very honest, very                  18 straightforward, and that when I tell them                  19 something, I mean what I say.                  20 Working with the media, I've already                  21 explained that a little bit. I worked with                  22 WCOV when it was a CBS affiliate here in                  23 town, WSFA, and then I had a stint with a</p>	<p style="text-align: right;">Page 132</p> <p>1 The last things I want to talk to you                  2 about is that I know that there are, as I                  3 mentioned before, a lot of -- a lot of                  4 highly competent individuals, which allows                  5 ADEM to do its job in the field -- the                  6 technical operations. They can do that,                  7 which frees up the Director to do what he                  8 or she needs to be doing, and that is                  9 standing in the halls of the Alabama State                  10 house, knocking on the Governor's door                  11 making a case for what we are doing, making                  12 sure that they understand that a lot of                  13 what we do is mandated by the federal                  14 government. We don't have a choice. It's                  15 not an opportunity for us to say yes or no.                  16 What we need from the Governor and the                  17 Legislature is the pat on the back that                  18 says I'm going to get you what you need. I                  19 understand your mission, and I'm going to                  20 make sure that you have what you need to                  21 get it done.                  22 I truly believe that my background and                  23 my experience uniquely qualifies me for</p>

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<p>1 this position. I've built bridges with                  2 groups that folks never thought that they                  3 would ever have an opportunity to talk                  4 with. I have a history of strong                  5 relationships with the Legislature, the                  6 Governor, Lieutenant Governor, Finance                  7 Director and others, so I already have that                  8 edge.                  9 Unfortunately, it appears that the                  10 trend is that we're going to have less and                  11 less resources, at least in the foreseeable                  12 future. That's going to be a challenge.                  13 But I also know that this agency's Director                  14 must possess much more than just technical                  15 skills to get past those challenges. It                  16 has to be somebody that has the ability to                  17 talk, advocate, lead and be able to make                  18 sure that the Legislature understands what                  19 we're trying to do.                  20 The last thing I'm going to say to you                  21 is I thank you for this opportunity, and                  22 again, I welcome the opportunity to be your                  23 next Director, and I'll be happy to answer</p>	<p>1 COMMISSIONER ARCHIE: Commissioner Brown.                  2 COMMISSIONER BROWN: What areas of change for                  3 the operation of the Department do you see                  4 or would you focus on?                  5 MR. ARGO: Commissioner, I'll have to be                  6 honest with you. I really can't tell you                  7 that until I get inside and have an                  8 opportunity to talk with HR and with the                  9 division directors. It may very well be                  10 that ADEM is set up exactly the way that it                  11 ought to be. It may be necessary not -- to                  12 make several changes. I don't know that.                  13 I will say this, though: That I do know                  14 that whoever becomes the Director is going                  15 to have to be sensitive to what's going on                  16 outside of this Department as far as the                  17 budget, funding resources, so there may                  18 have to be some changes made there, but to                  19 be honest with you, I really can't answer                  20 that with any definition until I get on the                  21 inside and have an opportunity to find out.                  22 COMMISSIONER ARCHIE: Commissioner Wainwright?                  23 COMMISSIONER WAINWRIGHT: I know you're</p>
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<p>1 any questions you might have.                  2 Thank you.                  3 COMMISSIONER ARCHIE: Thank you, Mr. Argo.                  4 Commissioner Phillips?                  5 COMMISSIONER PHILLIPS: Thank you, Mr. Argo.                  6 You mentioned relationships, so I'm                  7 going to ask you about some other                  8 relationships.                  9 MR. ARGO: Yes, sir.                  10 COMMISSIONER PHILLIPS: Do you currently or at                  11 anytime have you had a business and/or                  12 personal relationship with anyone on this                  13 Commission?                  14 MR. ARGO: The only person that I know on the                  15 Commission is Ms. Archie. When Ms. Archie                  16 was with the Alabama Development Office,                  17 she had an opportunity to work with our                  18 city on a couple of economic development                  19 projects, but that is the only relationship                  20 that I've had with anyone on the                  21 Commission.                  22 COMMISSIONER PHILLIPS: Okay. Thank you.                  23 MR. ARGO: Yes, sir.</p>	<p>1 familiar with the Open Meeting laws --                  2 MR. ARGO: Yes, sir.                  3 COMMISSIONER WAINWRIGHT: -- and the Freedom                  4 of Information Act.                  5 MR. ARGO: Yes, sir.                  6 COMMISSIONER WAINWRIGHT: And the -- It sort                  7 of puts a spotlight on this Commission the                  8 way we conduct business. How would you                  9 facilitate communication between us to                  10 allow us to exchange ideas without stepping                  11 over the line with regard to the Open                  12 Meeting law.                  13 MR. ARGO: Yes, sir. That's a very good                  14 question. Quite frankly, when this                  15 Commission is seated as a body, it must                  16 abide by the Open Meetings law. The                  17 Director, as the head of this state agency                  18 and using taxpayer dollars, must also be                  19 aware of what's required under the Freedom                  20 of Information Act, but I also know that                  21 that Act does allow for communication                  22 between the body and the Director,                  23 especially when it deals with possible</p>

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1 litigation, when it deals with economic  
2 development, so I think that my background  
3 as a media person, but also as a public  
4 relations person, would allow me to  
5 navigate that very narrow area but make  
6 sure that we stay within the law, but I  
7 assure you that this Commission will be  
8 kept abreast of everything that goes on.  
9 Any changes that need to be made, any  
10 correspondence that I need to have with you  
11 will be done within the law.  
12 COMMISSIONER ARCHIE: How do you plan to  
13 address the interests and goals of both  
14 industrial business entities and  
15 environmental groups on the operation of  
16 the agency? In your view, who are the  
17 clients of the agency and how does the  
18 agency address competing interests of those  
19 clients?  
20 MR. ARGO: Yes, ma'am. First of all, I  
21 believe the citizenry of Alabama is the  
22 client, is the group of individuals that  
23 this Commission and this Department was

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1 created to serve. I do know that  
2 constituency groups, special interest  
3 industry, those are all groups that you  
4 have to work with, but the bottom line,  
5 they are also citizens of this state, too,  
6 so I would say that threading that needle  
7 of working with constituency and special  
8 interest groups but always keeping in mind  
9 that we are serving the citizenry of  
10 Alabama is the most important thing. I  
11 believe in fairness. I think that even my  
12 strongest critic, no matter where he or she  
13 may be, will stand up and tell you that I'm  
14 a fair individual. I believe that you make  
15 decisions based on information from all  
16 groups, not just one. You don't rely on  
17 your own experiences to make a decision or  
18 to decide a course, and I think that as  
19 long as we as a Commission, as a Department  
20 and as a Director make sure that everything  
21 we do is in the best interest of the  
22 citizen, then we'll be doing the right  
23 thing.

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1 COMMISSIONER ARCHIE: Thank you.  
2 MR. ARGO: Yes, ma'am.  
3 COMMISSIONER ARCHIE: Commissioner Lester?  
4 COMMISSIONER LESTER: Thank you. I have the  
5 next two questions.  
6 MR. ARGO: Okay.  
7 COMMISSIONER LESTER: You've pretty well  
8 answered this first one, but in managing,  
9 we have over 600 employees here, which you  
10 had over 400 and all that, and I know being  
11 president of city council, I know what you  
12 go through.  
13 MR. ARGO: Yes, sir.  
14 COMMISSIONER LESTER: I did that for twenty  
15 years.  
16 MR. ARGO: Bless your heart.  
17 COMMISSIONER LESTER: Somebody said earlier,  
18 "Why did you want that job? I don't know."  
19 What is your management style to keep  
20 down morale problems with like  
21 micro-managing? A lot of times we found  
22 out, especially here, that somebody gets to  
23 micro-managing everything, and that's the

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1 worst thing you can do for morale -- sort  
2 of hit it in both directions.  
3 MR. ARGO: Yes, sir. First of all,  
4 micro-managing kills productivity, and when  
5 I or anyone else tries to tell someone else  
6 how to do their job, it really just kills  
7 their productivity and ability to be  
8 creative in doing that. My management  
9 style is something that I learned from  
10 State Superintendent Wayne Teague when I  
11 worked at the State Department, and that's  
12 the management by walking around. I think  
13 that that does two things: One is that I  
14 think that the staff and personnel has to  
15 see the Director as somebody who is open,  
16 who is sincere, who is willing to come to  
17 them so that they're not summoned to the  
18 principal's office, so to speak; has to be  
19 somebody that is willing to walk around,  
20 talk with folks when they're not in the  
21 field or not when they've done something  
22 wrong, but just on a day-to-day basis to  
23 find out what their concerns are, what

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<p>1 their needs are. I also think the second                  2 thing that that does is that it gives the                  3 Director great input as far as not having                  4 to worry about citizen -- not citizen --                  5 employee groups forming and saying, you                  6 know, we have -- we have to kill that guy.                  7 He's killing us. We're going to have to do                  8 something about him. So I want to make                  9 sure that I'm walking around so that they                  10 see me, they know that I have an open door,                  11 that if they do need to come and talk to me                  12 about a concern or they need to talk to me                  13 about an issue that they're having, I want                  14 them to view me as a colleague. I don't                  15 want them to look at me as -- as the -- as                  16 the principal, so to speak, somebody who is                  17 going to judge them or is going to punish                  18 them in some way, so my management style is                  19 management by walking around. They've got                  20 to see me as a colleague, not just as a                  21 manager. And, again, that also goes back                  22 to my point about having to be a leader.                  23 You lead people only because they're</p>	<p>1 them fairly, that is about as much justice                  2 as you can give anybody. I think the role                  3 that the Department and that the Director                  4 and that the Commission is going to play                  5 with environmental justice is, again,                  6 treating people fairly. You mentioned that                  7 you had 20 years experience at the                  8 municipal level and I certainly have 14                  9 years of that. City governments are the                  10 closest government to the people. They're                  11 the governments that really understand what                  12 their citizens need, and I'm -- I've always                  13 been very careful about what state                  14 government or even the federal government                  15 does or does not do to the citizenry of                  16 local governments. If the requirement                  17 comes down for you to do something, then                  18 you obviously have no choice. You have got                  19 to do it, but you have to do it fairly.                  20 You don't have to go in to a -- a bull in a                  21 China shop and just knock everything down                  22 to reach a goal, but what you can do is you                  23 can be as fair as you possibly can, and as</p>
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<p>1 willing to follow you. You can lead, but                  2 if you turn around and they're not there,                  3 there's not a lot you can do.                  4 COMMISSIONER LESTER: Thank you.                  5 MR. ARGO: Yes, sir.                  6 COMMISSIONER LESTER: The next is, what do you                  7 think the term is on environmental justice                  8 and what does it mean to you and what's the                  9 responsibility of ADEM to environmental                  10 justice?                  11 MR. ARGO: Yes, sir. First of all,                  12 environmental justice is one of those terms                  13 that just about everybody has their own                  14 personal opinion about exactly what it                  15 means. What it means to me is that -- the                  16 key word to me is justice. Justice to me                  17 is fairness. As long as you make sure that                  18 you're following your rules, as long as you                  19 make sure that you have fully implemented                  20 everything that you said you were going to                  21 implement and you have an opportunity to                  22 get input from other groups that are                  23 affected by what you're doing and you treat</p>	<p>1 long as others understand that your bottom                  2 line is fairness, your bottom line is                  3 looking out for their best interest -- they                  4 may not like what's happening to them, but                  5 eventually they will come to accept it and                  6 they will eventually come to support it.                  7 That's my opinion.                  8 COMMISSIONER LESTER: Thank you.                  9 MR. ARGO: Yes, sir.                  10 COMMISSIONER ARCHIE: Commissioner Wainwright.                  11 COMMISSIONER WAINWRIGHT: I'm almost ready to                  12 move to Prattville.                  13 MR. ARGO: We'd love to have you.                  14 COMMISSIONER WAINWRIGHT: Mr. Argo, we find                  15 ourselves -- we -- our revenue, one is from                  16 grants from EPA; the other is from fees and                  17 fines, and the small amount from the                  18 Legislature --                  19 MR. ARGO: Yes, sir.                  20 COMMISSIONER WAINWRIGHT: -- and we find                  21 ourselves on occasion getting a new                  22 regulation that's going to require more                  23 resources -- unfunded mandate, so to</p>

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<p>1 speak -- and how would you approach this?                  2 If it hit you suddenly and you needed to                  3 get additional revenues, how would you look                  4 at that?                  5 MR. ARGO: I mentioned earlier that one of the                  6 primary responsibilities of whoever the                  7 next Director is is going to be someone who                  8 is able to have conversations with those                  9 that hold the purse strings. Funding is                  10 going to be a very difficult issue, again,                  11 for the foreseeable future. I think it's                  12 going to be incumbent upon the Director,                  13 with support of the staff, to be able to                  14 get inside of the Legislature and the                  15 Governor's office and the Finance Director                  16 and clearly articulate not only the mission                  17 and goals, but what the current                  18 requirements are, and again, that's a                  19 communication problem or communication                  20 challenge. I've been around the Alabama                  21 Legislature long enough to know that if                  22 you're not in their face, they don't think                  23 about you. I know that if you go over</p>	<p>1 COMMISSIONER WAINWRIGHT: Thank you.                  2 MR. ARGO: Yes, sir.                  3 COMMISSIONER ARCHIE: With so many counties in                  4 Alabama out of attainment for air quality                  5 measures, how would you direct the agency                  6 to take proactive steps to address the                  7 problem?                  8 MR. ARGO: Coincidentally, I attended the EDAA                  9 meeting a couple of weeks ago, and an                  10 individual from ADEM was there to conduct a                  11 session on air quality and attainment. I                  12 do know that if we're not careful, we're                  13 soon going to see practically every county                  14 in the State of Alabama designated as                  15 nonattainment. That's scary to me,                  16 especially with your background in economic                  17 development and mine with -- in my career.                  18 I don't think there's probably anything                  19 that's going to shut down economic                  20 development in the State of Alabama or stop                  21 the creation of jobs more than if companies                  22 outside of our state view us as a polluted                  23 state or they don't -- we don't have what</p>
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<p>1 there and make a presentation and leave,                  2 that they're quickly turning their                  3 attention to somebody else -- the old                  4 squeaky wheel gets the grease, so to speak                  5 -- and I'm very well equipped and trained                  6 to do that. I think that the Governor,                  7 Finance Director and the -- especially the                  8 Legislature must have a clear understanding                  9 of what this Department's requirements are                  10 and what we're facing down the road when                  11 they make their funding decisions. If we                  12 just go over there once in a while and say,                  13 "Hello. How are you doing," then they're                  14 going to be worrying about somebody else                  15 who's pulling on their coattails and who's                  16 in their offices waiting on them with a cup                  17 of coffee saying, "I've got to talk to                  18 you." So my plan would be to clearly                  19 articulate what the recurrent requirements                  20 are, what we're facing down the road and                  21 how they're going to have to be a partner                  22 in making sure that this agency in properly                  23 funded.</p>	<p>1 they need. What I would suggest that we do                  2 is that -- as far as being attainment, is I                  3 think that we have to work with staff to                  4 look at every single county that is either                  5 already under nonattainment or could                  6 possibly be under nonattainment. We have                  7 to identify those that are above the                  8 mission standards. We've got to be able to                  9 find out where they, then we have to work                  10 with them and with the county governments                  11 and the city governments, if those plants                  12 are located -- facilities are located                  13 inside of cities. We have to all work                  14 together on this issue. This is not an                  15 ADEM issue, it's not a Commission issue,                  16 it's not a local issue. It is everybody                  17 that's going to be affected by this, so                  18 what I would want to do is I would want to                  19 make sure that everybody understands that                  20 ADEM is not going to come up with a                  21 solution on its own; local governments are                  22 not going to come up with a solution on its                  23 own. We're going to have to work together</p>

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<p style="text-align: right;">Page 149</p> <p>1 to find ways of limiting and reducing 2 emissions so that we don't face that scary 3 issue down the road where practically all 4 of our counties are under nonattainment. 5 COMMISSIONER ARCHIE: Tell me what your 6 personal belief is on climate change. Do 7 you believe that it should be a regulatory 8 issue, and how would that influence your 9 leadership of ADEM in this matter? 10 MR. ARGO: Okay. Climate change is an 11 interesting topic. I've dealt with it a 12 lot with AMEA and Electric Cities of 13 Alabama. I've attended enough seminars; 14 I've been to enough -- Let's just say this. 15 I'll try not to be too political with my 16 answer. I'll try to be straightforward as 17 much as I can. Climate change, everybody 18 has a different idea of what it means. 19 Everybody has an issue; everybody's got an 20 opinion. Do I believe that we as human 21 beings contribute to the degradation of the 22 environment? Yes, absolutely. You cannot 23 go out and start a car; you can't throw</p>	<p style="text-align: right;">Page 151</p> <p>1 an opinion about climate change. I think 2 the truth is probably in the middle 3 somewhere. 4 COMMISSIONER ARCHIE: I will leave my comments 5 to myself on that. 6 Commissioner Phillips. 7 COMMISSIONER PHILLIPS: I don't know if you're 8 aware -- You didn't mention in your 9 comments that you're aware of the recent 10 petition for removal of state authority on 11 the NPDES program. 12 MR. ARGO: Yes, sir. 13 COMMISSIONER PHILLIPS: I'm curious that if 14 you are the leadership of this -- you are 15 the leader of this agency, how would you 16 deal with that? 17 MR. ARGO: I am aware of it. I know that Mr. 18 Hagood is probably sitting on the edge of 19 his chair waiting to see what I'm going to 20 say because it might make his job a little 21 bit more difficult down the road, but I 22 will say this: That is a real issue for 23 this Department. I think that it has</p>
<p style="text-align: right;">Page 150</p> <p>1 something in a ditch. You can't do 2 something like that and not impact the 3 environment. Do I believe that Vice 4 President Al Gore is correct? I don't 5 know. I've got a friend of mine that works 6 in Tennessee that tells me that Vice 7 President Gore's electric bill is about 8 \$4,000.00 a month, so he's not really 9 worried about global warming. But I will 10 say this: My personal views of what global 11 warming is is really going to be whatever 12 this Commission tells me it is, because I 13 think both sides are right. I don't know 14 how to fix it. I do know that we as 15 individuals must be cognizant of what we do 16 to the environment, no matter what it is, 17 because I think everything has a relation. 18 So my personal view of climate change is 19 really not going to impact my ability to be 20 the Director of this Department, because, 21 again, it's going to be whatever you tell 22 me it is, and I know that sounds political, 23 but, you know, like I said, everybody's got</p>	<p style="text-align: right;">Page 152</p> <p>1 probably more to do with perception than it 2 does with reality. I haven't seen the 3 data, so I don't know if the group that's 4 petitioning for removal of authority is 5 correct, but what I do know is that if I am 6 appointed to be the Director of this 7 Department, one of the first things that I 8 will do is I will get with staff to find 9 out where it is that the group is coming 10 from, what ADEM's defensible position is, 11 and I will make sure that we're following 12 the rules, that we're implementing 13 everything that's been required of us 14 within reason, if we have the money and 15 resources to do that, and then, of course, 16 I will do what I can to at least allay the 17 fears or do what I can to let the groups 18 know that are dissatisfied with the current 19 performance of the Department, that we're 20 working on that and we're going to do the 21 best we can to meet their expectations and 22 we're going to make sure that we follow the 23 law. I think that's one of the most</p>

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<p>1 critical things that we can do for any                  2 group, is to make sure that they know that                  3 regardless of what we do, it is going to be                  4 because we are following the law, and as                  5 long as we're doing that, I think we're                  6 going to be fair; I think that we're going                  7 to give them confidence in what we're doing                  8 here. And we're probably not ever going to                  9 make everybody happy -- I know that that's                  10 a very difficult thing to do, at least in                  11 my experience, but I do know that if you                  12 work with folks, that you're sensitive to                  13 their positions, if you're willing to take                  14 what they're telling you as they believe it                  15 and you're going to have to do something                  16 with it other than just dismiss it, then I                  17 think that you build relationships down the                  18 road. So since that's a legal proceeding                  19 and it's a developing issue, I really don't                  20 want to say a whole lot more about that.                  21 I'm very sensitive when it comes to lawyers                  22 and legal issues. I know that you need to                  23 be as quiet as possible and let the lawyers</p>	<p>1 then we're going to make sure that if it's                  2 not, that it's enforced. We're going to do                  3 that. I think that's our charge; I think                  4 that's our responsibility. The second part                  5 I would say about that is that I know that                  6 there's a lot of interest in local                  7 communities wanting to locate landfills.                  8 Again, my background in city government                  9 tells me that that's their statutory                  10 authority to be able to do that, but I also                  11 know that they have a legal responsibility                  12 to make sure that they're permitted                  13 properly and that they're operating                  14 properly. And I mentioned to you that I                  15 know that there are a lot of employees of                  16 this Department that are wanting to be very                  17 helpful to citizens and to communities and                  18 to constituency groups. We're going to do                  19 that. We're going to be helpful. We're                  20 going to make sure that they follow the                  21 rules, that they're going to follow the                  22 law, and if they are not, then of course                  23 we're going to enforce whatever penalties</p>
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<p>1 fight that out.                  2 COMMISSIONER PHILLIPS: Thank you.                  3 MR. ARGO: Yes, sir.                  4 COMMISSIONER ARCHIE: Commissioner Pierce.                  5 COMMISSIONER PIERCE: Thank you.                  6 Mr. Argo, my question is about solid                  7 waste, about landfills and about their                  8 closure. On more than one occasion, the                  9 Department has allowed situations to                  10 develop where landowners have not met                  11 obligations for reserve requirements for                  12 closure and post closure maintenance at the                  13 landfills.                  14 MR. ARGO: Yes, sir.                  15 COMMISSIONER PIERCE: How might you address                  16 this situation to ensure that this does not                  17 remain a recurring problem?                  18 MR. ARGO: Two points I would like to make.                  19 The first point is we're going to follow                  20 the law. If the law says that we're                  21 responsible for permitting a landfill, then                  22 we're going to do that; we're going to make                  23 sure that that permit is complied with, and</p>	<p>1 are necessary. I know that -- I guess the                  2 way I would sum that up is we're -- we're                  3 all in the same boat, all of us, regardless                  4 of where we sit. We are -- we are -- We                  5 are in Prattville, Alabama; we're in                  6 Montgomery, Alabama. Wherever we may be,                  7 we're in the same boat, and if one                  8 community is allowed to not follow the                  9 rules, then it's kind of hard to hold                  10 another community accountable. Again, I go                  11 back to my fairness issue. You treat                  12 everybody the same. Everybody has to be                  13 treated fairly. They have to know what the                  14 requirements are; they have to follow them,                  15 and if they don't, there has to be some                  16 penalty. It's the same rule I teach my                  17 children. Follow our rules, we're going to                  18 be okay. If you don't, there's going to be                  19 a consequence, and I think that that's what                  20 we have to do. We have to make sure that                  21 communities clearly understand what our                  22 role is, and that is to make sure they do                  23 things the right way.</p>

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1 COMMISSIONER PIERCE: Thank you. 2 MR. ARGO: Yes, sir. 3 COMMISSIONER ARCHIE: Are there any other 4 questions from Commissioners? 5 (No response.) 6 COMMISSIONER ARCHIE: Thank you, Mr. Argo. 7 MR. ARGO: Thank you. 8 COMMISSIONER ARCHIE: We will be in contact 9 with you regarding our selection. 10 MR. ARGO: Yes, ma'am. Thank you. 11 COMMISSIONER ARCHIE: At this time, this 12 concludes our interviews schedule. 13 At this time, I would like to have a 14 discussion among the Commissioners 15 regarding the schedule for appointing the 16 new Director and setting the salary for the 17 new ADEM Director. I think that you were 18 forwarded by Debi on yesterday information 19 on that process. What we need to do, from 20 my understanding -- and, Debi, correct me 21 -- that if we were to -- the Commissioners 22 were polled and there's a consensus that 23 this appointment selection would be made at	1 checked. Is that something we could do 2 during that time period? 3 COMMISSIONER ARCHIE: I'll call on the 4 Department at this time. 5 MR. HAGOOD: Madam Chair, I've given some 6 thought to that, and the criminal 7 background checks are easily done by the 8 Department of Public Safety. The civil 9 background checks, I think it's in the best 10 interest of the employees here to not be 11 involved in that process. With that in 12 mind, my suggestion is -- and just a 13 suggestion -- would be that one of the 14 hearing officers that we have under our 15 employ now would conduct that check through 16 the court system or the Westlaw or whatever 17 means they need, provide us the method 18 through which they did it and give the 19 results as quickly as possible. I would -- 20 You would probably want to put a time frame 21 of the middle of March to have those due to 22 you. 23 MS. THOMAS: Mr. Hampton can do that.
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1 our next regular scheduled meeting, which 2 is April the 16th -- Debi has done from 3 checking for us, and from our understanding 4 with Tracy, Tracy advised that this would 5 have to go through the State Personnel 6 Department, the Governor and the Finance 7 Director. 8 COMMISSIONER LESTER: I make a motion we do it 9 on the 18th of April -- 16th of April. 10 COMMISSIONER ARCHIE: 16th of April. 11 Everybody in agreement on that? 12 COMMISSIONER PHILLIPS: That is the next 13 meeting, right? 14 COMMISSIONER ARCHIE: That's the next 15 scheduled meeting of the Commission. Any 16 further discussion about -- 17 COMMISSIONER PHILLIPS: I have a question. 18 COMMISSIONER ARCHIE: Yes. 19 COMMISSIONER PHILLIPS: Since we're doing it, 20 you had asked at the last meeting that we 21 have some background checks done, and I'm 22 assuming that would also include these 23 references that were provided being	1 COMMISSIONER LESTER: Can our attorney do that 2 without being -- getting into what 3 you're -- he's not an employee, really. 4 COMMISSIONER PHILLIPS: He's employed by the 5 Commission, but that's okay. 6 MR. HAGOOD: I'm certainly not going to put 7 Robert on the spot. 8 COMMISSIONER LESTER: It doesn't matter. I 9 agree with you on having it done through 10 outside. 11 MR. HAGOOD: The hearing officer is now 12 employed through a register -- it's a 13 part-time position, and those are licensed 14 attorneys that have private practices -- if 15 I speak out of turn -- 16 MR. TAMBLING: No. That's fine. 17 MR. HAGOOD: Then we have -- I know we have 18 one right now that we have used, and I 19 think we have either two or -- maybe three 20 that we've used. In the best interest of 21 all involved, including Robert and the AG's 22 office, my suggestion would be that we 23 simply ask one of them to conduct this



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<p>1 check and they can bill us for it as they                  2 would for time in a hearing.                  3 COMMISSIONER PHILLIPS: Madam Chairman, I'm                  4 okay with that as long as we also include                  5 that they check these references that were                  6 provided.                  7 COMMISSIONER ARCHIE: Agreed. I think that's                  8 very important. That was along the point                  9 that I was going to make, that we need to                  10 make sure that we check -- check the                  11 references, as well as those background                  12 checks that we talked about at the previous                  13 meeting. I think we have a motion on the                  14 table. Do we have any further discussion                  15 on -- Commissioner Wainwright?                  16 COMMISSIONER WAINWRIGHT: I would like to be                  17 able to go look at the information that                  18 this person has, but I don't want to                  19 possess it.                  20 COMMISSIONER PHILLIPS: Amen.                  21 COMMISSIONER ARCHIE: Three amens on that, so                  22 we're going to make that information                  23 available through the secretary. Is that</p>	<p>1 COMMISSIONER PHILLIPS: I think we'll make it                  2 available through the hearing officer.                  3 COMMISSIONER ARCHIE: Make it the hearing                  4 officer, but I would like to add that -- I                  5 mean, we need to have some type of summary                  6 of what those findings are, so I would like                  7 to see the hearing officer possibly give us                  8 a summary of those findings and then that                  9 is available through Debi, and if there's                  10 any other further information, leave it                  11 with the hearing officer, all the                  12 supporting documentation for it, so that's                  13 what I was suggesting.                  14 MR. HAGOOD: Okay.                  15 COMMISSIONER ARCHIE: Any further discussion?                  16 (No response.)                  17 COMMISSIONER ARCHIE: I think we had a motion                  18 on the table that we will make the                  19 selection of the Director at the regular                  20 scheduled meeting on April the 16th?                  21 COMMISSIONER WAINWRIGHT: Yes.                  22 COMMISSIONER ARCHIE: I call for the question.                  23 All in favor say aye.</p>
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<p>1 okay, Debi?                  2 MS. THOMAS: Yes, it is.                  3 COMMISSIONER WAINWRIGHT: Or through the                  4 hearing officer.                  5 COMMISSIONER ARCHIE: Through the hearing                  6 officer.                  7 COMMISSIONER WAINWRIGHT: Right.                  8 COMMISSIONER ARCHIE: Are there --                  9 MR. HAGOOD: With that in mind, we're saying                  10 the 15th of March would be the deadline for                  11 having this done, and the further                  12 instruction will be that this hearing                  13 officer, at his or her office, has that                  14 information available for you. Is that --                  15 COMMISSIONER WAINWRIGHT: Yes, that's the                  16 instruction.                  17 COMMISSIONER PHILLIPS: To also include                  18 references.                  19 MR. HAGOOD: And to include references,                  20 available at his or her office, or                  21 available through Debi in her office?                  22 COMMISSIONER WAINWRIGHT: I don't think                  23 Debi --</p>	<p>1 COMMISSIONER PIERCE: Aye.                  2 COMMISSIONER PHILLIPS: Aye.                  3 COMMISSIONER LESTER: Aye.                  4 COMMISSIONER BROWN: Aye.                  5 COMMISSIONER ARCHIE: Those opposed?                  6 (No response.)                  7 COMMISSIONER ARCHIE: Motion carried.                  8 (Whereupon, an affirmative                  9 vote was taken.)                  10 COMMISSIONER ARCHIE: Speaking of -- Is there                  11 any other business to come before the                  12 Commission at this time?                  13 (No response.)                  14 COMMISSIONER ARCHIE: I would like to note                  15 that as we just finished discussing that                  16 our next regular Commission meeting is                  17 April the 16th at 11:00 a.m., I just want                  18 to check and see if everyone will be                  19 available for that meeting on that day.                  20 COMMISSIONER BROWN: I'm the lawyer on the                  21 Commission; I've got a trial that week.                  22 Maybe I'll be in Bullock County.                  23 COMMISSIONER ARCHIE: Okay. At this time I</p>

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1 would like to have a motion to adjourn.  
2 COMMISSIONER PHILLIPS: So moved.  
3 COMMISSIONER LESTER: Second.  
4 COMMISSIONER ARCHIE: We are adjourned.

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1 REPORTER'S CERTIFICATE  
2 STATE OF ALABAMA  
3 ELMORE COUNTY  
4 I, Anita D. Griffith, Certified  
5 Professional Reporter and Notary Public in and  
6 for the State of Alabama at Large, do hereby  
7 certify on Friday, February 19, 2010, I reported  
8 the meeting of the Alabama Department of  
9 Environmental Management Commission; that the  
10 foregoing colloquies, statements, questions and  
11 answers thereto were reduced to 3-164 typewritten  
12 pages under my direction and supervision.

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

17 This the 5th day of March, 2010.  
18  
19

20 /s/ Anita D. Griffith  
Anita D. Griffith ACCR #380  
21 Certified Court Reporter and  
Notary Public  
22 Commission expires: 8/17/2011  
23

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REPORTER'S CERTIFICATE

STATE OF ALABAMA  
ELMORE COUNTY

I, Anita D. Griffith, Certified Professional Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify on Friday, February 19, 2010, I reported the meeting of the Alabama Department of Environmental Management Commission; that the foregoing colloquies, statements, questions and answers thereto were reduced to 3-164 typewritten pages under my direction and supervision.

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

This the 5th day of March, 2010.

*Anita D. Griffith* /ca  
/s/ Anita D. Griffith  
Anita D. Griffith ACCR #380  
Certified Court Reporter and  
Notary Public  
Commission expires: 8/17/2011



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**Part B**



## **Attachment Index**

- Attachment 1**      **Agenda**
- Attachment 2**      **Resolution adopting amendments to ADEM Admin. Code Division 3, Air Pollution Control Program Regulations**  
**(Agenda Item 4 – Consideration of adoption of proposed amendments to ADEM Admin. Code Division 3, Air Pollution Control Program Regulations)**
- Attachment 3**      **Resolution adopting amendments to ADEM Admin. Code Division 4, Scrap Tire Program Regulations**  
**(Agenda Item 5 – Consideration of adoption of proposed amendments to ADEM Admin. Code Division 4, Scrap Tire Program Regulations)**
- Attachment 4**      **Resolution adopting amendments to ADEM Admin. Code Division 14, Hazardous Waste Program Regulations**  
**(Agenda Item 7 – Consideration of adoption of proposed amendments to ADEM Admin. Code Division 14, Hazardous Waste Program Regulations)**
- Attachment 5**      **Order adopting motion to make selection of the Director at the regular scheduled Commission meeting on April 16th**  
**(Agenda Item 9 – Interview candidates for the ADEM) Director position)**





**Attachment 1**



Amended 2/11/10(2)

AGENDA\*  
MEETING OF THE  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: February 19, 2010

TIME: 11:00 a.m.

LOCATION: Alabama Department of Environmental Management (ADEM) Building  
Alabama Room (Main Hearing Room)  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059

<u>ITEM</u>	<u>PAGE</u>
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2. Report from the Director	2
3. Report from the Commission Chair	2
4. Consideration of adoption of proposed amendments to ADEM Admin. Code Division 3, Air Pollution Control Program Regulations	2
5. Consideration of adoption of proposed amendments to ADEM Admin. Code Division 4, Scrap Tire Program Regulations	2
6. Consideration of adoption of proposed amendments to ADEM Admin. Code Division 1, General Administration Regulations and Division 13, Solid Waste Program Regulations	2
7. Consideration of adoption of proposed amendments to ADEM Admin. Code Division 14, Hazardous Waste Program Regulations	3
8. <u>Chicago Deer River Properties, LLC v. ADEM</u> EMC Docket No. 10-03	3
9. Interview candidates for the ADEM Director position	3
10. Other business	3
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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 FEBRUARY 9, 2010
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 3, AIR POLLUTION CONTROL PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Admin. Code Division 3, Air Pollution Control Program Regulations, Rules 335-3-1-.02, 335-3-10-.01, 335-3-10-.02, 335-3-10-.03, 335-3-11-.01, 335-3-11-.06, 335-3-11-.07, and Appendix C. The proposed revisions incorporate by reference changes to the New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPs) promulgated by EPA. The Department held a public hearing on the proposed amendments on December 9, 2009.

5. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 4, SCRAP TIRE PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Admin. Code Division 4, Scrap Tire Program Regulations. The revisions to rules within this Division are proposed pursuant to amendments to the Alabama Scrap Tire Environmental Quality Act enacted in 2009. The revisions clarify certain provisions of the Scrap Tire Program regulations related to the reporting and recordkeeping requirements of Scrap Tire Receivers, Processors and Transporters. The Department held a public hearing on the proposed amendments on January 6, 2010.

6. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 1, GENERAL ADMINISTRATION REGULATIONS AND DIVISION 13, SOLID WASTE PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Admin. Code Division 1, General Administration Regulations, Rule 335-1-1-.07, Departmental Forms, Rule 335-1-6, Fee Schedule G, and ADEM Admin. Code Division 13, Solid Waste Program Regulations, Rule 335-13-7-.01(2), Notification of Medical Waste Generation. The proposed amendments would establish annual fees and registration requirements for medical waste generators. The Department held a public hearing on the proposed amendments on December 9, 2009.

7. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE DIVISION 14, HAZARDOUS WASTE PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Admin. Code Division 14, Hazardous Waste Program Regulations, Chapters 335-14-1 to 335-14-8, 335-14-11, and 335-14-17. These revisions would adopt federal hazardous waste regulations additions/modifications that occurred from July 2008 to June 2009 so the Department's hazardous waste program is equivalent to the federal program. The Department held a public hearing on the proposed amendments on December 11, 2009.

8. CHICAGO DEER RIVER PROPERTIES, LLC V. ADEM, EMC DOCKET NO. 10-03

The Commission will acknowledge Petitioner Chicago Deer River Properties, LLC's withdrawal of the appeal and request for hearing regarding ADEM's objection to the Petitioner's certification of coastal consistency for the Theodore Industrial Port Project, COE-09-025-SED/SAM-2008-2038-HEH.

9. INTERVIEW CANDIDATES FOR THE ADEM DIRECTOR POSITION

INTERVIEW 1

CANDIDATE: Lance R. LeFleur  
TIME: 11:30 a.m. – 12:15 p.m.

INTERVIEW 2

CANDIDATE: Louis M. Montgomery, J.D., P.E.  
TIME: 12:30 p.m. – 1:15 p.m.

INTERVIEW 3

CANDIDATE: Dean R. Argo  
TIME: 1:30 p.m. – 2:15 p.m.

10. OTHER BUSINESS

11. FUTURE BUSINESS SESSION



**Attachment 2**





**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 335-3 of the Department's Air Pollution Control Program Rules and Regulations in accordance with Code of Alabama 1975, §§ 22-22A-8 and 41-22-4; 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 did not receive any written or oral comments at the public hearing or during the public comment period.

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 335-3 [Amendments to 335-3-1-.02/Definitions (Amend); 335-3-10-.01/General (Amend); 335-3-10-.02/Designated Standards of Performance (Amend); 335-3-10-.03/Appendices to 40 CFR 60 (Amend); 335-3-11-.01/General (Amend); 335-3-11-.06/National Emission Standards for Hazardous Air Pollutants for Source Categories (Amend); 335-3-11-.07/Appendices to 40 CFR 63 (Amend); 335-3-Appendix C/EPA Regulations Reference Documents for New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (Amend)] of the Department's Air Division – Air Pollution Control

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

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

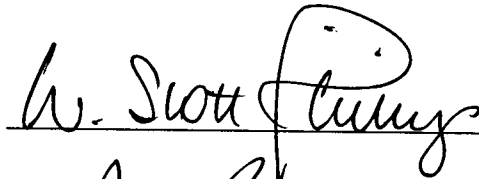
**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

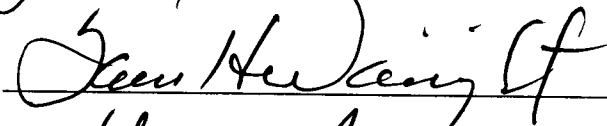
ADEM Admin. Code division 335-3 – Air Division-Air Pollution Control Program


IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of February 2010.

APPROVED:

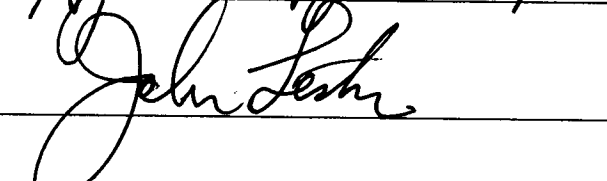
  
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This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of February 2010.

ABSTAINED:

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Chair  
Environmental Management Commission  
Certified this 19th day of February 2010

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**Attachment 3**



**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 335-4 of the Department's Scrap Tire Program Rules and Regulations in accordance with Code of Alabama 1975, §§ 22-22A-8 and 41-22-4; 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 did not receive any written or oral comments at the public hearing or during the public comment period.

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 335-4 [Amendments to 335-4-1-.01/Definitions (Amend); 335-4-1-.04/General (Amend); 335-4-2-.02/Site Ranking System (Amend); 335-4-2-.03/Scrap Tire Fund (Amend); 335-4-2-.04/Remediation Contracting (Amend); 335-4-3-.01/Registration Requirements (Amend); 335-4-4-.03/Engineered Uses of Processed Tire Material (Amend); 335-4-5-.01/General Requirements for Receivers (Amend); 335-4-5-.03/Reporting (Amend); 335-4-5-.04/Recordkeeping Requirements (Amend); 335-4-6-.03/Reporting (Amend); 335-4-6-.04/Recordkeeping Requirements (Amend); 335-4-7-.03/Reporting (Amend);

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

335-4-7-.04/ Recordkeeping Requirements (Amend)] of the Department's Land Division – Scrap Tire Program rules, administrative code attached hereto, to become effective thirty-five days after filing, unless otherwise indicated, with the Alabama Legislative Reference Service.

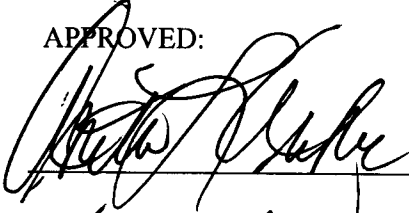
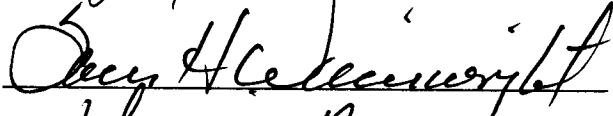

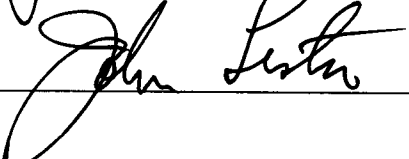


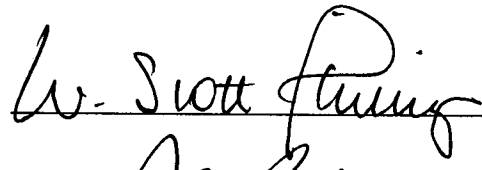

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

ADEM Admin. Code division 335-4 – Scrap Tire Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of February 2010.

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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 19th day of February 2010.

  
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Chair

Environmental Management Commission  
Certified this 19th day of February 2010



**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 335-14 of the Department's Hazardous Waste Program Rules and Regulations in accordance with Code of Alabama 1975, §§ 22-22A-8 and 41-22-4; 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 did not receive any written or oral comments at the public hearing or during the public comment period.

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 335-14 [Amendments to 335-14-1-.02/Definitions and Reference (Amend); 335-14-2-.01/General (Amend); 335-14-2-Appendix IX/Wastes Excluded Under 335-14-1-.03 (2) (Amend); 335-14-3-.01/General (Amend); 335-14-03-.02/The Manifest (Amend); 335-14-3-.08/Special requirements for Generators of Waste Destined for Disposal at Commercial Hazardous Waste Disposal Facilities Located in the State of Alabama(Amend); 335-14-3-.12/Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities (New); 335-14-4-

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

.05/Transfer Facility Requirements (Amend); 335-14-5-.02/General Facility Standards (Amend); 335-14-5-.05/Manifest System, Recordkeeping and Reporting (Amend); 335-14-5-.06/Releases from Solid Waste Management Units (Amend); 335-14-5-.07/Closure and Post-Closure (Amend); 335-14-5-.08/Financial Requirements (Amend); 335-14-5-.10/Tank Systems (Amend); 335-14-5-.12/Waste Piles (Amend); 335-14-5-.13/Land treatment (Amend); 335-14-5-.14/Landfills (Amend); 335-14-5-.15/Incinerators (Amend); 335-14-5-.19/Special Provisions for Cleanup (Amend); 335-14-5-Appendix I/Recordkeeping Instructions (Amend); 335-14-6-.07/Closure and Post Closure (Amend); 335-14-6-.14/Landfills (Amend); 335-14-6-Appendix I/Recordkeeping Instructions (Amend); 335-14-8-.02/Permit Application-Treatment, Storage and Disposal Facilities (Amend); 335-14-11-.02/Standards for Small Quantity Handlers of Universal Waste (Amend); 335-14-17-.03/Standards for Used Oil Generators (Amend); 335-14-17-.05/Standards for Used Oil Transporter and Transfer Facilities (Amend)] of the Department's Land Division – Hazardous Waste Program rules, administrative code attached hereto, to become effective thirty-five days after filing, unless otherwise indicated, with the Alabama Legislative Reference Service.

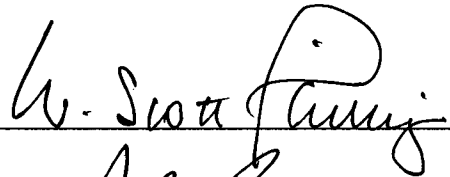
**ENVIRONMENTAL MANAGEMENT COMMISSION  
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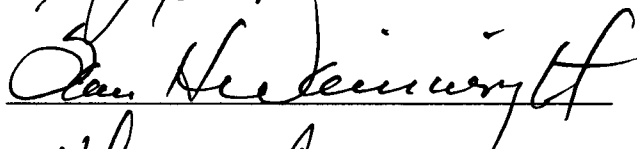
ADEM Admin. Code division 335-14 – Hazardous Waste Program


IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of February 2010.

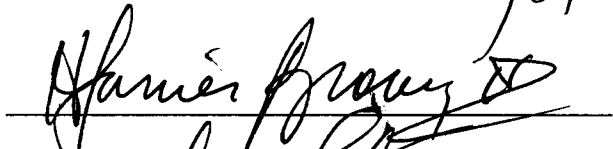
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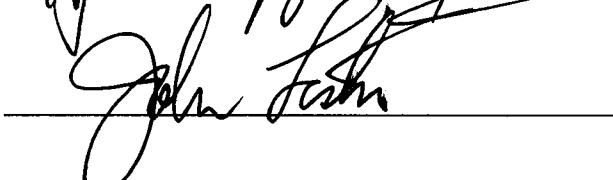
  
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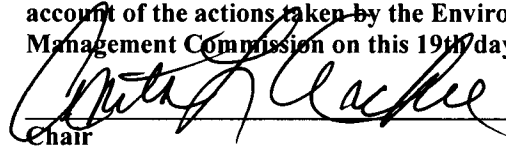
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ABSTAINED:

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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 19th day of February 2010.

  
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Chair  
Environmental Management Commission  
Certified this 19th day of February 2010

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**Attachment 5**



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

MOTION

Make the selection of the Director  
at the regular scheduled Commission meeting on April 16th

ORDER

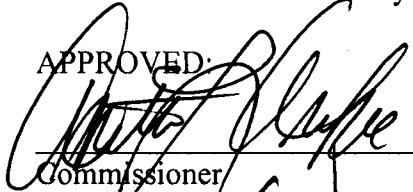
This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

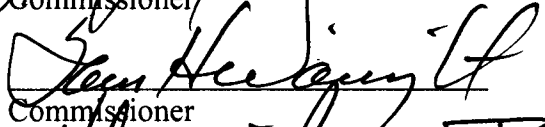
1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order  
Page 2

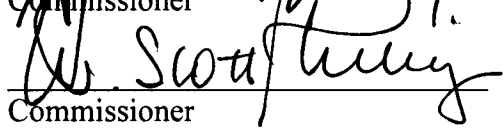
ISSUED this 19<sup>th</sup> day of February 2010.

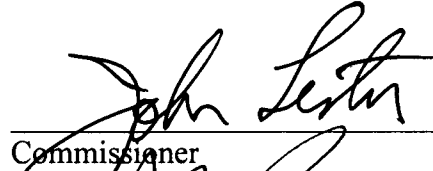
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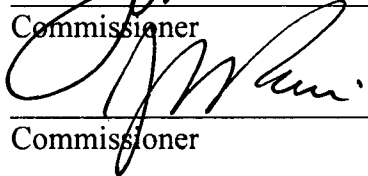
  
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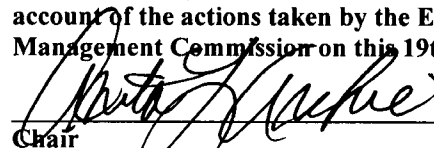
ABSTAINED:

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Commissioner

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Commissioner

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Commissioner

This is to certify that this Order is a true and accurate  
account of the actions taken by the Environmental  
Management Commission on this 19th day of February 2010.

  
\_\_\_\_\_  
Chair

Environmental Management Commission  
Certified this 19th day of February 2010