

4/18/16

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
February 19, 2016**

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on February 19, 2016.



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

Certified this 15th day of April 2016.

Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
February 19, 2016

Convened: 11:00 a.m.
Adjourned: 11:32 a.m.

Part A

Transcript
Word Index

Part B

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Part A

L*4545*L* Page 1

1 ALABAMA ENVIRONMENTAL MANAGEMENT
2 COMMISSION MEETING
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9 ALABAMA DEPARTMENT OF ENVIRONMENTAL
10 MANAGEMENT
11 Alabama Room
12 1400 Coliseum Boulevard
13 Montgomery, Alabama 36110-2400
14 February 19, 2016
15 11:00 a.m.
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21
22
23 Taken by: Charity McCulley, CCR #424

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1 CHAIRMAN BROWN: We will
2 call the meeting of the
3 Environmental Management
4 Commission to order. Chair
5 acknowledges that there is a
6 quorum present.
7 First item on the agenda is
8 the consideration of the minutes
9 of the meeting held on December
10 18, 2015. The minutes have been
11 circulated amongst the
12 Commission members in advance of
13 this meeting. And I will
14 entertain a motion
15 MR. PHILLIPS: So moved.
16 DR. LAIER: Second.
17 CHAIRMAN BROWN: So moved to
18 what?
19 MR. PHILLIPS: To accept the
20 minutes.
21 CHAIRMAN BROWN: Thank you.
22 DR. LAIER: Second.
23 CHAIRMAN BROWN: All in

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1 A P P E A R A N C E S
2
3 COMMISSION MEMBERS PRESENT:
4 H. Lanier Brown, II, Esquire, Chair
5 W. Scott Phillips, Vice Chair
6 Terry D. Richardson, Ph.D.
7 Samuel L. Miller, M.D.
8 Craig Martin, D.V.M.
9 Mary J. Merritt
10 James E. Laier, Ph.D., P.E.
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13
14 ALSO PRESENT:
15 Robert D. Tambling, EMC Legal Counsel
16 Debi Thomas, EMC Executive Assistant
17 Russell Kelly, Chief of the Department's
18 Permits and Services Division
19
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21
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1 favor say aye.
2 THE COMMISSION: Aye.
3 CHAIRMAN BROWN: Any
4 opposed?
5 (No response.)
6 CHAIRMAN BROWN: Motion
7 passes.
8 Next on the agenda is the
9 report from the Director. Good
10 morning.
11 MR. LeFLEUR: Good morning.
12 And good morning to all of those
13 present here this morning.
14 Today's report will address
15 the efforts to obtain increased
16 Department funding from the
17 General Fund, provide some
18 perspective on ADEM budget cuts
19 in the context of the State's
20 total budget, present our
21 regular review of the RCRA
22 Hazardous Waste Performance
23 Dashboards, highlight a recent

<p style="text-align: right;">Page 5</p> <p>1 innovation to improve 2 efficiency, and close with some 3 comments on the lead and 4 greenhouse gas environmental 5 issues currently receiving 6 national attention. 7 The 2016 Legislative Session 8 is now underway with seven 9 legislative days behind us and 10 another 23 to go. The 11 Department was one of ten state 12 agencies to be granted a joint 13 hearing with the House and 14 Senate budget committees to 15 present testimony on its FY2017 16 budget request. ADEM is not one 17 of the ten largest state 18 agencies receiving 19 appropriations from the General 20 Fund, so it is very unusual for 21 the Department to appear before 22 the budget committees. It can 23 be assumed that the requested</p>	<p style="text-align: right;">Page 7</p> <p>1 The General Fund budget for 2 FY2017 is anticipated to be even 3 more challenging than the FY2016 4 budget. As painful as the ADEM 5 FY2016 budget cuts were, many 6 state agencies were cut even 7 more deeply. The budget 8 requests presented at the 9 recently held budget hearings, 10 include efforts by nearly all 11 state agencies to recover FY2016 12 cuts, as well as unmet needs 13 from prior years. It appears 14 that state revenues available 15 for FY2017 will be at least \$40 16 million less than FY2016, and 17 there appears to be no likely 18 sources of new revenue. 19 On the first day of the 20 session, the Governor submitted 21 a proposed budget to the 22 Legislature that called for the 23 Department to have a net funding</p>
<p style="text-align: right;">Page 6</p> <p>1 appearance is an indication of 2 heightened legislative interest 3 in ADEM's financial issues. 4 ADEM requested a FY2017 5 General Fund appropriation of 6 \$8.5 million, which includes \$6 7 million for a new field office 8 in Mobile. The new facility 9 would replace the two locations 10 currently in use, and most 11 importantly, would move the 12 field operations staff out of 13 their current substandard and 14 badly outdated facility. The 15 remaining \$2.5 million in the 16 request covered emergency 17 response funding, increased 18 resources to meet the demands of 19 the new federal coal ash and 20 eReporting regulations, and the 21 Department's costs related to 22 the state-mandated new financial 23 reporting system.</p>	<p style="text-align: right;">Page 8</p> <p>1 of zero as compared to the 2 FY2016 budget adopted by the 3 Legislature, which net funded 4 the Department at a negative 5 \$944,000. For other agencies, 6 the Governor's proposed budget 7 called for a general 5% cut. 8 Given the State's dire financial 9 circumstances, the Department is 10 preparing for the possibility 11 that none of its budget requests 12 will be granted in the final 13 General Fund budget to come out 14 of the Legislature. As the 15 budget process moves forward, I 16 will be reporting on adjustments 17 to operations to adapt to such 18 funding as is available. 19 The Department has mounted 20 an aggressive outreach to the 21 Legislature to educate members 22 on the work of ADEM and the need 23 to adequately fund the</p>

<p style="text-align: right;">Page 9</p> <p>1 Department. The message to the 2 Legislature is that ADEM work 3 includes: Issuing permits 4 protective of the environment 5 that adhere to legal 6 requirements without a political 7 agenda; obtaining permit 8 compliance based on inspections, 9 education and, failing that, 10 penalties; and, providing rapid 11 and efficient service to all 12 constituencies. These 13 priorities help assure a safe, 14 healthful, and productive 15 environment for Alabama. 16 The message goes on to 17 maintain that a financially 18 sound ADEM allows the State to 19 be master of its own destiny. 20 An underfunded ADEM invites 21 greater federal involvement in 22 our state through EPA. We are 23 all well aware that ADEM is</p>	<p style="text-align: right;">Page 11</p> <p>1 including those designated to 2 clean up existing pollution. We 3 are, therefore, not only working 4 for funding, we are working 5 against any efforts to transfer 6 money from the Department to the 7 General Fund. When the public 8 agreed to pay fees specifically 9 to clean up existing pollution 10 in the form of scrap tire dumps, 11 illegal solid waste dumps, and 12 leaking underground storage 13 tanks, they entered into a trust 14 agreement that the funds would 15 be used for their intended 16 purposes. The public has every 17 right to expect that if the fees 18 are not being used for their 19 intended purposes, that the fees 20 will no longer be collected. We 21 must maintain the integrity of 22 these cleanup funds and we are 23 sparing no effort to do so.</p>
<p style="text-align: right;">Page 10</p> <p>1 under close scrutiny by EPA for 2 alleged insufficient funding. 3 If that scrutiny shows an 4 underfunded ADEM, it can lead to 5 greater EPA involvement in the 6 environmental affairs of 7 Alabama. Unfortunately, recent 8 history has shown that EPA 9 activities negatively impact 10 economic development and job 11 creation. 12 Finally, members of the 13 Legislature are being made aware 14 of the urgency of acting in this 15 legislative session since EPA 16 has stated that it will act on 17 whether to seek to take over the 18 ADEM water program on or before 19 12/31/16. 20 As you all remember, last 21 year the Legislature required 22 the transfer of \$1.2 million 23 from the Department's funds,</p>	<p style="text-align: right;">Page 12</p> <p>1 An important component of 2 our Legislative outreach is to 3 encourage all interested 4 parties, including regulated 5 industries, environmental 6 organizations, elected leaders, 7 Commission members, and others, 8 to contact individual 9 legislators with the ADEM 10 message. 11 Efforts also continue with 12 these same groups to solicit 13 ideas for other sources of 14 funding, as well as ideas to 15 improve efficiency. We hope to 16 leave no stone unturned in 17 dealing with the ongoing 18 critical issue of funding. 19 The next portion of today's 20 report is related to the 21 scrutiny EPA is continuing to 22 give Departmental funding. It 23 has been noted that EPA</p>

<p style="text-align: right;">Page 13</p> <p>1 considers both the amount of 2 resources that are made 3 available to state environmental 4 programs, as well as how 5 effectively those resources are 6 used. One of the best measures 7 of effectiveness is EPA's 8 Interactive Visual Compliance 9 and Enforcement Metrics Program, 10 known as Dashboards, which are 11 regularly presented in 12 Commission meetings. Today we 13 will review Performance 14 Dashboards for the Resource 15 Conservation and Recovery Act, 16 or RCRA, Hazardous Waste 17 Program. 18 At the outset, let me point 19 out that these dashboards are 20 somewhat different than the Air 21 and Water Dashboards. Under the 22 Air and Water Dashboards, the 23 compliance and enforcement</p>	<p style="text-align: right;">Page 15</p> <p>1 often not initiated through 2 compliance and enforcement 3 actions, and thus do not appear 4 in EPA's compliance and 5 enforcement metrics. 6 The following slides will 7 look at the size and composition 8 of the regulated universe, the 9 rate of inspection of components 10 of that universe, the rate of 11 identifying noncompliance, and 12 the timeliness of enforcement 13 actions. 14 Only a small, active 15 RCRA-permitted facility universe 16 is reflected on the following 17 RCRA dashboards. They are shown 18 on this first slide as TSDFs, 19 which stands for Hazardous Waste 20 Treatment Storage and Disposal 21 Facilities. The remainder of 22 the regulated universe shown on 23 this slide are the generators of</p>
<p style="text-align: right;">Page 14</p> <p>1 metrics shown are at an almost 2 one-to-one ratio to facilities 3 that hold permits under those 4 programs. That is not the case 5 in the Hazardous Waste Program. 6 The Hazardous Waste Program, 7 which falls under the federal 8 RCRA, has separate and distinct 9 permitting and compliance areas. 10 The RCRA dashboards focus on 11 compliance and enforcement 12 activities for regulated 13 facilities, but there is a 14 permitting component of the 15 Hazardous Waste Program that 16 encompasses both active 17 hazardous waste facilities, as 18 well as facilities undergoing 19 corrective action for previously 20 contaminated hazardous waste 21 management areas. Corrective 22 actions on previously 23 contaminated sites are most</p>	<p style="text-align: right;">Page 16</p> <p>1 hazardous waste, and are 2 classified based on the amount 3 of hazardous waste they produce 4 monthly. This chart shows 5 Alabama's total hazardous waste 6 universe in fiscal year 2015 was 7 more than 5,200 facilities. The 8 universe is broken down into 9 four categories: Treatment, 10 storage and disposal facilities, 11 TSDFs, shown in purple; large 12 quantity generators, LQGs, shown 13 in yellow; small quantity 14 generators, SQGs, in the blue 15 portion; and "others" 16 represented in orange. 17 The majority of the 18 RCRA-regulated facilities in our 19 state fall into the small 20 quantity generator and "other" 21 categories. These facilities 22 either generate or store small 23 amounts of hazardous wastes or</p>

<p style="text-align: right;">Page 17</p> <p>1 they simply transport hazardous 2 wastes. This large number of 3 small facilities represents a 4 very small fraction of the total 5 hazardous waste generated and 6 managed in Alabama; and 7 therefore, a very small fraction 8 of environmental exposure risk. 9 By contrast, there are fewer 10 large generators of hazardous 11 waste, but they produce the vast 12 majority of hazardous wastes in 13 the State. 14 Interestingly, since the 15 last update, there has been an 16 upswing in the number of 17 hazardous waste notifications 18 received by the Department. 19 This increase in hazardous waste 20 notifications is due to 21 pharmaceutical notifications 22 from retail stores. Pharmacies 23 and big box stores, which have</p>	<p style="text-align: right;">Page 19</p> <p>1 potential hazardous waste risk. 2 This slide is a performance 3 dashboard. It shows a 4 comparison of the percentage of 5 annual inspections coverage of 6 large quantity generators made 7 in Alabama for the period 2011 8 through 2015, to the national 9 goal of 20% established by EPA. 10 The national goal for the RCRA 11 program is that all large 12 quantity generators receive a 13 comprehensive inspection every 14 five years, resulting in a goal 15 of 20% of the universe per year. 16 This measure of the rate of 17 inspections is one of our RCRA 18 grant commitments made each year 19 to EPA. If you look closely at 20 the graph, you can see the 21 dotted light blue line hovering 22 around the 20% EPA standard. 23 That dotted line is the national</p>
<p style="text-align: right;">Page 18</p> <p>1 now been categorized as Large 2 Quantity Generators, have begun 3 to routinely provide notice of 4 hazardous waste activity based 5 on the management of expired 6 pharmaceuticals, such as 7 nicotine patches. 8 In light of this trend, EPA 9 has developed proposed RCRA 10 regulations concerning retail 11 operations. The comment period 12 for the proposed rule ended on 13 December 24, 2015. This rule is 14 projected to prevent the 15 flushing of more than 6,400 tons 16 of hazardous waste 17 pharmaceuticals annually down 18 the sink and toilet, which will 19 have important environmental 20 benefits. 21 This next dashboard focuses 22 on large quantity generators, 23 which represent the greatest</p>	<p style="text-align: right;">Page 20</p> <p>1 average percentage of 2 inspections for all states. In 3 2015, there was a slight uptick 4 in national average for 5 inspection coverage for all 6 states, while Alabama declined; 7 however, as you can see, the 8 ADEM Hazardous Waste Program 9 continues to exceed the EPA 20% 10 goal for the rate of 11 inspections. 12 This slide is another 13 performance dashboard slide that 14 shows the percentage of 15 comprehensive hazardous waste 16 inspections in which one or more 17 violations were found during the 18 inspection. The EPA national 19 average, shown as the purple 20 dotted line, is approximately 21 26%, while the state national 22 average, shown as the green 23 dotted line, is approximately</p>

<p style="text-align: right;">Page 21</p> <p>1 35%. As you can see, the 2 Alabama Hazardous Waste Program 3 has exceeded both of these 4 national averages every year 5 when it comes to identifying 6 areas of noncompliance. Our 7 Hazardous Waste Compliance 8 Inspectors are experienced and 9 well trained in identifying 10 noncompliance issues. 11 This slide is another RCRA 12 performance dashboard, which 13 shows the percentage of 14 hazardous waste generator 15 facilities that were found to be 16 in significant noncompliance, or 17 SNC, with an applicable state or 18 federal requirement. The 19 percentages of these facilities 20 found to be in significant 21 noncompliance in both Alabama 22 and the nation, is very small. 23 For the past several years, ADEM</p>	<p style="text-align: right;">Page 23</p> <p>1 action, according to EPA's 2 Dashboards, consists of 3 Administrative Orders and 4 Consent Orders. The timeliness 5 metric shown on this slide for 6 RCRA is not present in other 7 media programs. This Dashboard 8 shows the percentage of 9 facilities where a formal 10 enforcement action has been 11 taken against the facility 12 within 360 days of discovery of 13 the violation. The EPA and 14 State National Goal is at least 15 80% of all formal enforcement 16 actions must be issued in 360 17 days or less. 18 In 2013 and 2014, the 19 Department did not quite achieve 20 the 80% goal. Prior to 2013, 21 EPA did not include the 35-day 22 public notice period required in 23 Alabama when calculating the 360</p>
<p style="text-align: right;">Page 22</p> <p>1 hazardous waste inspectors have 2 been consistent with or have 3 slightly exceeded the national 4 average of other state 5 inspectors in identifying SNCs 6 during facility inspections. 7 You see the red portion of this 8 slide representing the 9 percentages of sites where EPA 10 participated with ADEM in the 11 inspection, is higher than the 12 other percentages shown. This 13 would stand to reason, since 14 ADEM and EPA jointly target for 15 inspection a small number of 16 facilities where there is either 17 a high probability or have a 18 history of significant 19 noncompliance. 20 This final slide is a 21 performance dashboard for formal 22 enforcement actions. As you 23 recall, a formal enforcement</p>	<p style="text-align: right;">Page 24</p> <p>1 days. Without prior notice in 2 2013, EPA changed the 3 calculation to include the 4 public notice period, which 5 resulted in the Department 6 failing to meeting the 80% goal 7 in 2013 and 2014. The process 8 for issuing formal enforcement 9 has now been adjusted to ensure 10 that formal enforcement actions, 11 including the added 35-day 12 public notice required in 13 Alabama, are issued by the 14 Hazardous Waste Program within 15 360 days. As you can see from 16 the 2015 data, the adjustment to 17 the enforcement process has 18 achieved the desired outcome and 19 100% of formal enforcement 20 actions are issued within 360 21 days. 22 To summarize, these 23 dashboards show: An increasing</p>

<p style="text-align: right;">Page 25</p> <p>1 universe of hazardous waste 2 handling facilities, primarily 3 in the retail sector; the rate 4 of inspections continues to 5 exceed EPA's goals; 6 identification of facilities 7 found to be in both 8 noncompliance and significant 9 noncompliance is on par with or 10 exceeds national averages; and, 11 enforcement actions are timely. 12 As has been previously noted, 13 the dashboards presented today 14 are just a few of the more than 15 150 available on the EPA 16 website. 17 Given the Department's 18 funding issues, the type of 19 performance reflected in these 20 dashboards is likely the only 21 thing preventing EPA from being 22 more involved in Alabama's 23 environmental programs.</p>	<p style="text-align: right;">Page 27</p> <p>1 that data transmitted to the 2 central office where it 3 automatically feeds into the 4 data transmitted to EPA, all 5 without the need for 6 labor-intensive multiple 7 entries. Another benefit of 8 this innovation is that the 9 opportunity for human error is 10 greatly reduced. 11 In light of the crisis in 12 Flint, Michigan, resulting from 13 the apparent failure of the 14 appropriate State and Federal 15 officials to safeguard the 16 drinking water from lead 17 contamination, I believe that it 18 is important to report what ADEM 19 is doing to protect our drinking 20 water and to assure all citizens 21 that it is indeed safe to drink 22 the water from their faucets. 23 ADEM's Drinking Water</p>
<p style="text-align: right;">Page 26</p> <p>1 From time to time, these 2 reports highlight innovations 3 that are being implemented to 4 improve efficiency and reduce 5 costs. Low cost is apparent in 6 the earlier review of the budget 7 situation. High performance is 8 evident in such things as the 9 dashboard metrics just 10 presented. An example of the 11 type of innovation that 12 contributes to high performance 13 at low cost, is the recent 14 successful deployment in the 15 Decatur Office of field 16 inspection tablets that are 17 fully integrated with 18 Departmental and EPA databases. 19 This innovation will soon 20 transition to the remaining ADEM 21 offices, allowing inspectors to 22 complete preformatted inspection 23 reports in real time and have</p>	<p style="text-align: right;">Page 28</p> <p>1 Program requires a thorough 2 state review and approval of 3 source water quality data, and 4 treatment methodologies before 5 allowing a new public water 6 supply source to come on line. 7 Alabama public water systems are 8 also required to conduct routine 9 monitoring of the water source 10 and distribution system and to 11 report the results to ADEM for 12 review and appropriate actions 13 as needed. 14 I'm delighted to report that 15 based on available monitoring 16 data, no Alabama public drinking 17 water source, that is, a well, 18 river, reservoir, or other, has 19 shown any significant amount of 20 lead. And no finished drinking 21 water from any Alabama public 22 drinking water source, contains 23 lead.</p>

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1 However, lead can also enter
2 drinking water through corrosion
3 of lead plumbing materials in
4 individual homes. By monitoring
5 water at those homes most likely
6 to have lead plumbing components
7 or installing system-wide
8 corrosion control treatment, all
9 of the public water systems in
10 Alabama affirmatively
11 demonstrate effective lead
12 contamination control. The
13 results of regular testing for
14 lead are submitted to ADEM. If
15 any public water system
16 continues to show an actionable
17 level of lead contamination, the
18 public water system must also
19 offer to replace lead service
20 lines under their customer's
21 control at an equitable cost to
22 the customer.
23 All Alabama public drinking

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1 EPA proposed a sweeping new
2 regulation called the Clean
3 Power Plan, seeking to reduce
4 the amount of carbon dioxide
5 produced by the electric power
6 generating industry in the
7 United States. The rule was
8 made final in 2015. The rule
9 has significant economic
10 implications throughout the
11 nation, and especially in
12 Alabama. Many questions have
13 been raised regarding the legal
14 authority of EPA to implement
15 the rule. The State of Alabama,
16 through the Attorney General's
17 Office, joined with 26 other
18 states challenging the rule in
19 Federal court. Last week, the
20 United States Supreme Court
21 issued a stay, stopping
22 implementation of the rule until
23 lower court decisions are

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1 water systems, regardless of
2 size, have what is acknowledged
3 by EPA to have optimal corrosion
4 control.
5 In the last five years there
6 have been less than a dozen
7 isolated cases of action-level
8 exceedances for lead found as a
9 result of testing in individual
10 older homes. In all cases, the
11 problem was quickly corrected by
12 the public water system. I am
13 pleased to report that in all of
14 2015, there were no actionable
15 levels of lead contamination in
16 the service area of any public
17 water system in Alabama. This
18 record is not surprising, since
19 ADEM's Water Program oversight
20 has resulted in Alabama having
21 the third least drinking water
22 violations in the nation.
23 Approximately two years ago,

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1 rendered and the Supreme Court
2 finally acts on any appeals of
3 the lower court decisions. The
4 September 2016 deadline for
5 submission of a state plan to
6 comply with the EPA rule, will,
7 therefore, be delayed until at
8 least some time in 2017. I will
9 keep you informed as matters
10 develop on this extremely
11 important and controversial
12 rule.
13 With that, my report for
14 today is concluded. I'll be
15 pleased to address any questions
16 you may have.
17 CHAIRMAN BROWN: Thank you.
18 Any questions or comments from
19 Commissioners?
20 (No response.)
21 CHAIRMAN BROWN: Thank you.
22 The report from the
23 Commission: The only thing I

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1 would like to state today is
2 give my gratitude on behalf of
3 the Commission, myself, and I
4 guess the State of Alabama, to
5 Commissioner Richardson for
6 representing the Commission at
7 the recent budget hearings.
8 Thank you very much for
9 doing that.
10 Next on the agenda is a
11 report and possible
12 recommendation from the
13 Rulemaking Committee on
14 Administrative Code 335-2,
15 Environmental Management
16 Commission Regulations, Rule
17 335-2-3-.05 Sections 1 through
18 3.
19 We will turn it over to
20 Rulemaking Committee Chair,
21 Phillips, on a full report from
22 the Rulemaking Committee.
23 MR. PHILLIPS: Thank you,

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1 Mr. Chairman. The EMC
2 Rulemaking Committee met this
3 morning at 10:00 a.m. in this
4 Commission room to continue our
5 assessment of ADEM
6 Administrative Code 335-2,
7 Environmental Management
8 Commission Regulations Rule
9 335-2-3-.05, Agenda, Sections 1
10 through 3.
11 The Committee has worked for
12 the last year in this effort as
13 requested by the Commission.
14 Over this time, we asked for
15 public participation several
16 times. We conducted a
17 stakeholder meeting and asked
18 for public comments relative to
19 versions, revised versions we
20 had prepared at the Committee
21 level. Based on this input, the
22 Committee agreed this morning on
23 some revisions to the existing

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1 rule. We voted to bring this
2 amended rule to the full
3 Commission today to be
4 considered for rulemaking. We
5 ask that the amended rule be
6 placed on the agenda for the
7 next regular Commission meeting
8 to be discussed and considered
9 for a vote of the full
10 Commission.
11 The Committee would
12 encourage all Commissioners to
13 review the work of the Committee
14 and be prepared to discuss and
15 consider for rulemaking at our
16 next regular Commission meeting.
17 I want to take a moment and
18 thank the Rulemaking Committee
19 members, Debi, Robert, and the
20 Director and his staff, for all
21 of their hard work and support
22 of our Committee over the last
23 year. I also want to thank the

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1 public for their input. We've
2 had some real dynamic exchanges
3 and some good information
4 provided to the Committee that
5 really played a large role in
6 what we proposed.
7 So I would be happy to
8 answer any questions at this
9 time or allow either of my
10 Rulemaking Committee members to
11 add to this report. Thank you.
12 (No response.)
13 CHAIRMAN BROWN: Any other
14 comments or questions?
15 (No response.)
16 CHAIRMAN BROWN: We will
17 place it on the agenda for the
18 next meeting.
19 MR. PHILLIPS: Thank you.
20 CHAIRMAN BROWN: Thank you
21 to the Committee for all of your
22 work.
23 Agenda item 5 is

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1 consideration of the adoption of
2 proposed amendments to
3 Administrative Code 335-13. And
4 we will call on the Department.
5 MR. DAVIS: Thank you, Mr.
6 Chairman. Good morning, members
7 of the Committee. My name is
8 Phillip Davis, I'm Chief of the
9 Land Division. I'm here today
10 to recommend the Commission
11 adopt amendments to the
12 Department's Division 13, Solid
13 Waste Program Regulations.
14 These proposed amendments would
15 provide alternative management
16 and disposal options, subject to
17 certain criteria for facilities
18 that generate wood ash from the
19 combustion of untreated and
20 non-processed wood, mixed with
21 minimal amounts of other
22 permitted non-coal solid fuels.
23 Chief among these proposed

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1 proposed rule. Written comments
2 were also received by the
3 Department during the public
4 comment period. Based on these
5 written comments, the proposed
6 regulations have been amended to
7 clarify the types of combustion
8 units that may generate the wood
9 ash potentially subject to these
10 regulations. No other changes
11 were made to the proposed
12 regulations as a result of the
13 remaining comments. The
14 Department's response to the
15 comments received during the
16 notice period have been provided
17 to each of you.
18 The revised regulations are
19 presented today for your
20 consideration. The Department
21 asks that you adopt these
22 proposed changes.
23 And I would be pleased to

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1 requirements would be
2 recordkeeping and reporting
3 conditions for the management of
4 the wood ash waste. In
5 addition, the proposed
6 regulation stipulate wood ash
7 waste exhibit less than 50% of
8 each of the hazardous waste
9 toxicity characteristic levels,
10 and that it not be managed in
11 floodplains, wetlands,
12 residential areas or areas less
13 than five feet above the
14 uppermost aquifer.
15 The proposed regulations
16 were subject to the public
17 comment period that ran from
18 November 22 though January 6.
19 And at a public hearing, which
20 was held here at the Department
21 on January 6. A single comment
22 was received during the public
23 hearing in support of the

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1 answer any questions you might
2 have.
3 MR. PHILLIPS: Mr. Chairman,
4 I move we adopt the proposed
5 amendments.
6 DR. RICHARDSON: Second.
7 CHAIRMAN BROWN: All in
8 favor?
9 THE COMMISSION: Aye.
10 CHAIRMAN BROWN: Any
11 opposed?
12 (No response.)
13 CHAIRMAN BROWN: It passes.
14 Thank you.
15 Next, agenda item 6 is
16 consideration of adoption of
17 proposed amendments to ADEM
18 Administrative Code 335-14,
19 Hazardous Waste Program
20 Regulations.
21 You're back.
22 MR. DAVIS: I'm still here.
23 Thank you, Mr. Chairman. As you

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1 know, the Department is required
2 to ensure that its hazardous
3 waste regulations remain
4 equivalent to the U.S. EPA's
5 regulations in order to fully
6 retain our authorized status.
7 Proposed revisions to Division
8 14 of the ADEM Administrative
9 Code before you today are a
10 result of the Department's
11 annual efforts to maintain this
12 equivalency.
13 Public notice of these
14 proposed rules began on October
15 25, and a public hearing was
16 held on December 16. No written
17 comments were received during
18 the comment period and there was
19 no one who attended the public
20 hearing.
21 On January 20, the State
22 Board of Public Health concurred
23 with the Department's

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1 recommendations to adopt the
2 rules as proposed.
3 At this time, I request that
4 the Commission adopt these
5 rules.
6 And, again, I'll be glad to
7 answer any questions.
8 MR. PHILLIPS: Mr. Chairman,
9 I move we adopt the proposed
10 rule.
11 DR. MILLER: Second.
12 CHAIRMAN BROWN: Call for
13 the question. All in favor?
14 THE COMMISSION: Aye.
15 CHAIRMAN BROWN: Any
16 opposed?
17 (No response.)
18 CHAIRMAN BROWN: It passes.
19 Thank you.
20 Next, is there any other
21 business any Commissioner would
22 want to bring forth?
23 (No response.)

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1 CHAIRMAN BROWN: Then I will
2 note that the next Commission
3 meeting is April 15, 2016.
4 And I'll entertain a motion
5 to adjourn.
6 MR. PHILLIPS: So moved.
7 DR. LAIER: Second.
8 CHAIRMAN BROWN: All in
9 favor?
10 THE COMMISSION: Aye.
11 CHAIRMAN BROWN: We're
12 adjourned.
13
14 (THE MEETING WAS CONCLUDED AT 11:32 A.M.)
15
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1 C E R T I F I C A T E
2 STATE OF ALABAMA)
3 COUNTY OF CONECUH)
4 I hereby certify that the above and
5 foregoing transcript of proceedings was
6 taken down by me in machine shorthand, and
7 the questions and answers thereto were
8 transcribed by means of computer-aided
9 transcription, and that the foregoing
10 represents a true and correct transcript of
11 the proceedings given by said witness upon
12 said hearing.
13 I further certify that I am neither
14 of counsel nor of kin to the parties to the
15 action, nor am I in anywise interested in
16 the result of said cause.
17 I further certify that I am duly licensed
18 by the Alabama Board of Court Reporting as
19 a Certified Court Reporter as evidenced by
20 the ACCR number following my name below.
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Part B

Attachment Index

Attachment 1 Agenda

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

**Attachment 3 Resolution to adopt amendments to ADEM Administrative Code 335-13,
Solid Waste Program Regulations
(Agenda Item 5)**

**Attachment 4 Resolution to adopt amendments to ADEM Administrative Code 335-14,
Hazardous Waste Program Regulations
(Agenda Item 6)**

Attachment 1

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: February 19, 2016
TIME: 11:00 a.m.
LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Conference Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

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* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission.

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

1. CONSIDERATION OF MINUTES OF MEETING HELD ON DECEMBER 18, 2015
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. REPORT AND POSSIBLE RECOMMENDATION FROM THE RULEMAKING COMMITTEE ON ADEM ADMINISTRATIVE CODE 335-2, ENVIRONMENTAL MANAGEMENT COMMISSION REGULATIONS, RULE 335-2-3-.05, AGENDA, SECTIONS (1) THROUGH (3)

The Rulemaking Committee Chair will report on the Committee's re-examination and study of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda, Sections (1) through (3). The Committee will also consider presenting to the Commission a recommendation as to whether the Commission should proceed to rulemaking and whether the Commission should consider adopting proposed guidelines to accompany the proposed Rule.

5. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE 335-13, SOLID WASTE PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code 335-13, Solid Waste Program Regulations to amend ADEM Administrative Code Chapters 335-13-1 and 335-13-4. The Department held a public hearing on the proposed amendments on January 6, 2016.

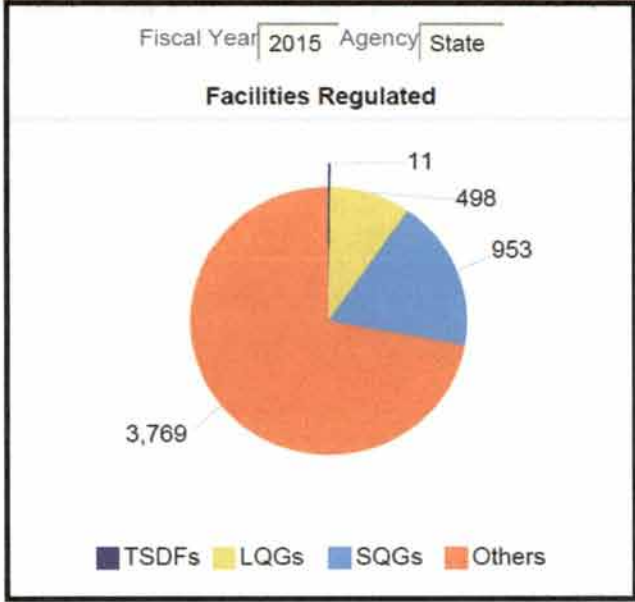
6. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE 335-14, HAZARDOUS WASTE PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code 335-14, Hazardous Waste Program Regulations to amend ADEM Administrative Code Chapters 335-14-1 to 335-14-3 and 335-14-5. The Department held a public hearing on the proposed amendments on December 16, 2015.

7. OTHER BUSINESS
8. FUTURE BUSINESS SESSION

Attachment 2

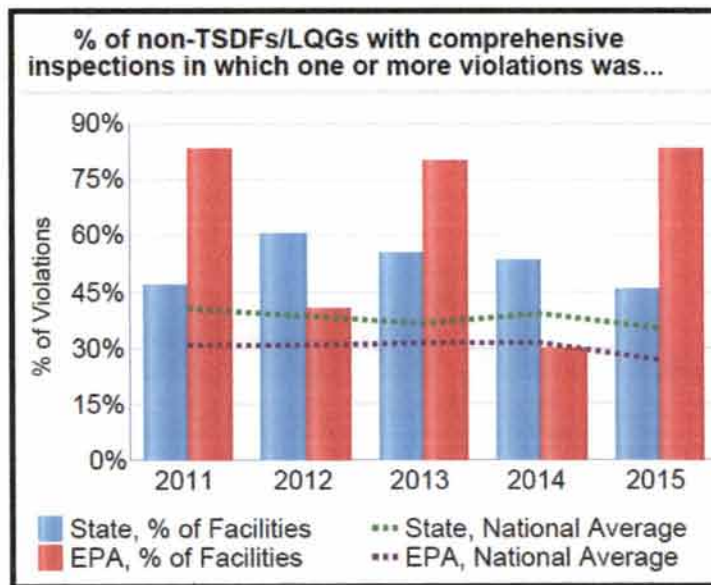
RCRA Regulated Facilities



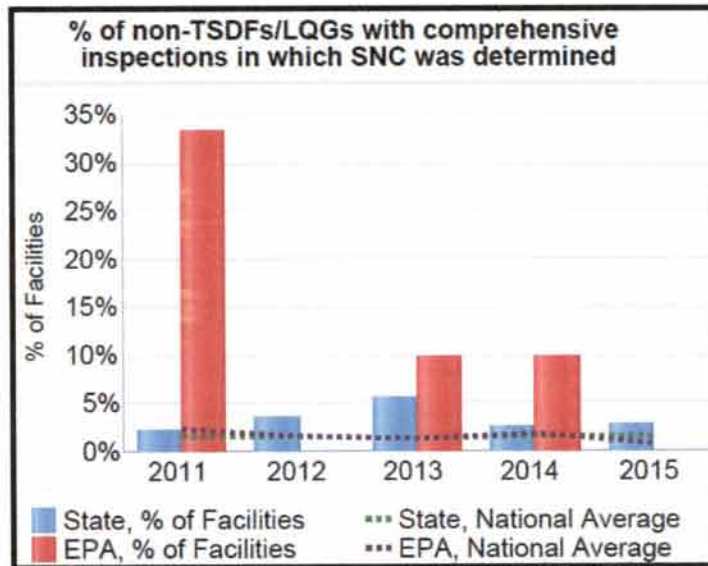
TSDF – Treatment, Storage & Disposal Facilities
LQG – Large Quantity Generator
SQG – Small Quantity Generator

RCRA Inspections of LQGs

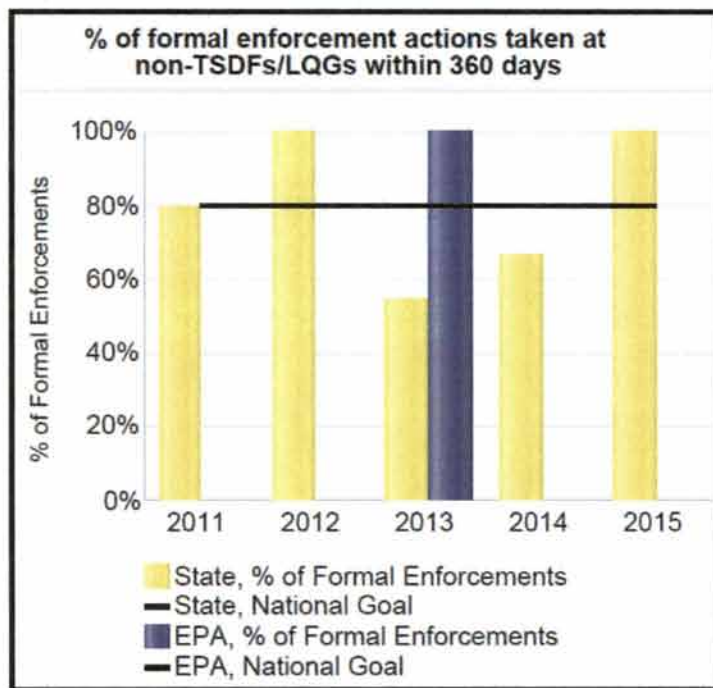




ADEM RCRA Compliance Status



RCRA Enforcement Actions



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 335-13 of the Department's Land Division – Solid Waste Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

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

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

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

NOW THEREFORE, pursuant to Ala. Code. §§ 22-27-2, 22-27-7, 22-27-9, 22-27-12 (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 [335-13-1-.03/Definitions (Amend), 335-13-4-.26/Requirements for Management and Disposal of Special Waste (Amend)] of the Department's Land Division –

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**


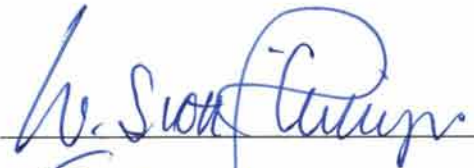
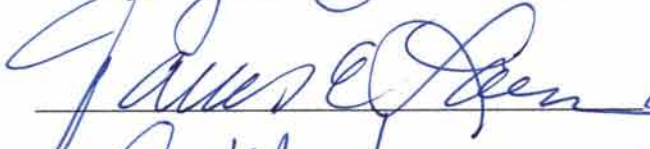

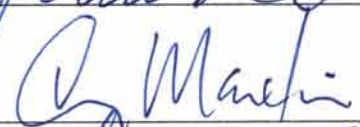


Solid Waste Program rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-13 – Solid Waste Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of February 2016.

APPROVED:

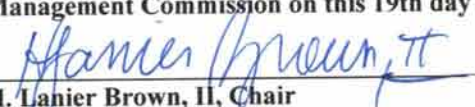
	
	
	
	

DISAPPROVED:

_____	_____
_____	_____
_____	_____
_____	_____

ABSTAINED:

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 2016.


H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 19th day of February 2016

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 Land Division's Hazardous Waste Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

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

WHEREAS, the Alabama Department of Environmental Management did not receive any written or oral comments at the public hearing or during the public comment period.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-30-3, 22-30-9, 22-30-10, 22-30-11, 22-30-12, 22-30-14, 22-30-15, 22-30-16 (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 335-6 [rules 335-14-1-.02/ Definitions and References (Amend); 335-14-1-.03/Petitions for Equivalent Testing or Analytical Methods (Amend); 335-14-2-.01/General (Amend); 335-14-2-.04/Lists of Hazardous Wastes (Amend); 335-14-2-.05/Exclusions/Exemptions (Amend); 335-14-2-.07/Reserved (New); 335-14-3-.08/Financial Requirements for Management of Excluded Hazardous Secondary Materials (New); 335-14-2-.09/Use and Management of Containers (New); 335-14-2-.10/Tank Systems (New); 335-14-2-.11/Reserved (New); 335-14-2-.12/Reserved (New); 335-14-2-.13/Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials (New); 335-14-2-.14/Reserved (New); 335-14-2-.15/Reserved (New); 335-14-2-.16/Reserved (New); 335-14-2-.17/Reserved (New); 335-14-2-.18/Reserved (New); 335-14-2-.19/Reserved (New); 335-14-2-.20/Reserved (New); 335-14-2-.21/Reserved (New); 335-14-2-.22/Reserved (New); 335-14-2-.23/Reserved (New); 335-14-2-

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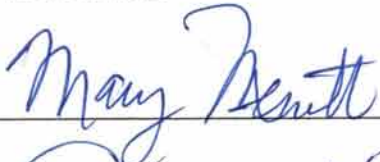
.24/Reserved (New); 335-14-2-.25/Reserved (New); 335-14-2-.26/Reserved (New); 335-14-2-.27/Subpart AA-Air Emission Standards for Process Vents (New); 335-14-2-.28/Subpart BB-Air Emission Standards for Equipment Leaks (New); 335-14-2-.29/Subpart CC-Air Emission Standards for Tanks, Surface Impoundments, and Containers (New); 335-14-2 Appendix IX/Wastes Excluded Under 335-14-1-.03(2) (Amend); 335-14-3-.03/Pre-Transport Requirements (Amend); 335-14-3-.05/Exports of Hazardous Waste (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); 335-14-5-.07/Closure and Post-Closure (Amend); 335-14-5-.15/Incinerators (Amend);] of the Department's Hazardous Waste Program rules, administrative code attached hereto, to become effective thirty-five days, unless otherwise indicated, after filing with the Alabama Legislative Reference Service.

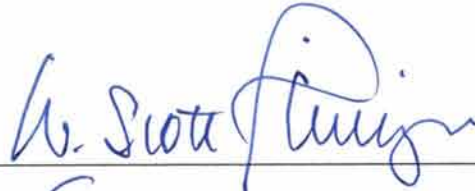
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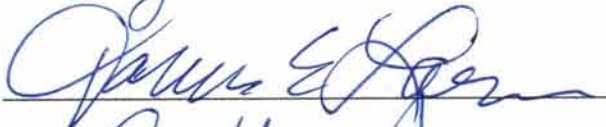
ADEM Admin. Code division 335-14 – Water Quality Program

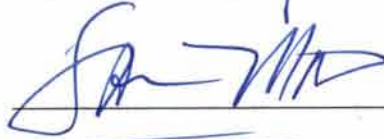
IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of February 2016.

APPROVED:

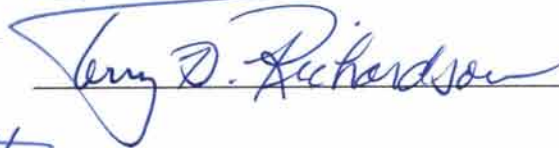


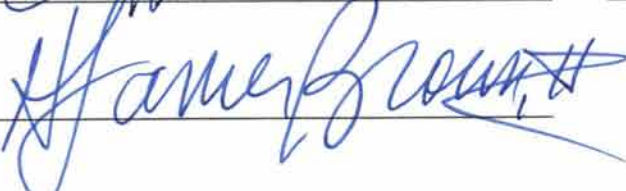








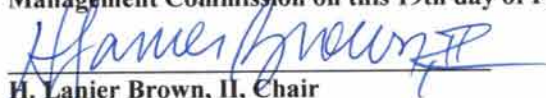




DISAPPROVED:

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 2016.

ABSTAINED:



H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 19th day of February 2016
