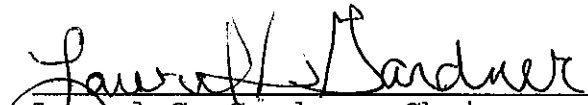


4/20/09

**Minutes**  
**Environmental Management Commission Meeting**  
**Alabama Department of Environmental Management Building**  
**1400 Coliseum Boulevard**  
**Montgomery, Alabama 36110-2059**  
**February 20, 2009**



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 20, 2009.

  
\_\_\_\_\_  
Laurel G. Gardner, Chair  
Environmental Management Commission

Certified this 17th day of April 2009.



**Minutes**  
**Environmental Management Commission Meeting**  
**Alabama Department of Environmental Management Building**  
**1400 Coliseum Boulevard**  
**Montgomery, Alabama 36110-2059**  
**February 20, 2009**

**Convened: 11:00 a.m.**  
**Adjourned: 12:18 p.m.**

**Part A**

**Transcript**

**Part B**

**Attachment Index**

**Attachments 1 – 7**



**Part A**





|  |  |
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| <p>ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION<br/>MEETING</p> <p>Alabama Department of Environmental Management<br/>Building<br/>Alabama Room (Main Hearing Room)<br/>1400 Coliseum Boulevard<br/>Montgomery, Alabama</p> <p>February 20, 2009      11:00 a.m.</p>  | <p>1                    DR. GARDNER: I call this<br/>2 Commission meeting to order. Item No. 1<br/>3 is consideration of the minutes from the<br/>4 last meeting. Do I have a motion?<br/>5                    DR. LESTER: So move.<br/>6                    DR. GARDNER: Do I have a<br/>7 second?<br/>8                    MR. PHILLIPS: Second.<br/>9                    DR. GARDNER: All right. Is<br/>10 there any discussion regarding the<br/>11 minutes from the last meeting? (No<br/>12 response.) All in favor of approving<br/>13 those minutes, say aye.<br/>14                    ALL: Aye.<br/>15                    DR. GARDNER: All opposed,<br/>16 same sign. (No response.) Motion<br/>17 carries.<br/>18                    Agenda Item No. 2 is the<br/>19 report from our Director, Mr. Glenn.<br/>20                    MR. GLENN: Thank you, Chair<br/>21 Gardner and Commissioners. Nice to be<br/>22 here today and get you up to speed on a<br/>23 few items that we have ongoing. As</p>   |
| Page 2   | Page 4   |
| <p>1 COMMISSION MEMBERS PRESENT:<br/>2 DR. LAUREL G. GARDNER, CHAIR<br/>3 SAM H. WAINWRIGHT, P.E., VICE-CHAIR<br/>4 ANITA L. ARCHIE<br/>5 DR. JOHN H. LESTER<br/>6 KENNETH A. HAIRSTON, ESQUIRE<br/>7 W. SCOTT PHILLIPS<br/>8<br/>9<br/>10 ALSO PRESENT<br/>11 ONIS "TREY" GLENN, III, ADEM DIRECTOR<br/>12 ROBERT TAMBLING, EMC LEGAL COUNSEL<br/>13 DEBI THOMAS, EMC EXECUTIVE ASSISTANT<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23</p> | <p>1                    usual, start just with a few housekeeping<br/>2 things. You should have received a memo<br/>3 regarding contracts we recently issued,<br/>4 and a budget is on slide. In light of<br/>5 what all you've been reading in the<br/>6 newspaper, what all we've been doing over<br/>7 the past several weeks.<br/>8                    As you know, in December<br/>9 Governor Riley declared proration, which<br/>10 is a 10 percent proration of the General<br/>11 Fund. This means for ADEM a cut of<br/>12 \$737,454 of General Fund money. That's<br/>13 10 percent of our total General Fund<br/>14 appropriation, irregardless of what<br/>15 earmarking it had on it or what category<br/>16 it went in.<br/>17                    Fortunately, as you well<br/>18 know and we've been talking about for<br/>19 some time, over the past three years,<br/>20 we've been preparing for times just like<br/>21 this. Didn't know exactly what time it<br/>22 would be, but we've been preparing for<br/>23 situations just like this.</p> |

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1           And while you'll hear a  
 2 whole lot of other folks talk about tough  
 3 times, tough decisions, we've been  
 4 talking about tough decisions we've been  
 5 making for the past several years. And  
 6 so that's -- I just have to say how proud  
 7 I am of all our staff members, of y'all,  
 8 in getting us prepared for these  
 9 situations.

10           In addition to the 10  
 11 percent proration, the Governor also  
 12 declared a freeze on hiring and on merit  
 13 raises as well as several other elements,  
 14 but we do have some statutory mandates  
 15 and issues out there -- solid waste is a  
 16 good example -- where it anticipated the  
 17 hiring of some additional individuals.  
 18 We'll be working with the Governor's  
 19 office on that about how that hiring is  
 20 possible. We'll keep you up to speed on  
 21 that.

22           The disappointing thing here  
 23 for all of our staff -- I know

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1           Commissioner Archie listens to it in her  
 2 day job as well -- is the staff members  
 3 who do get affected by this without  
 4 receiving their merit raises. And so we  
 5 -- that is disappointing, because all of  
 6 our staff is very deserving, not just  
 7 ADEM, but state government.

8           Lastly, on those -- on the  
 9 2009, the current year we're in now,  
 10 budget -- budget cuts, these cuts have  
 11 been finalized this week. It's a -- as  
 12 you know, it's a process that goes back  
 13 and forth between us and the Governor's  
 14 office on getting our Operating Plan and  
 15 budget approved.

16           And in addition to the  
 17 \$737,000 reversion of General Funds,  
 18 giving back the money, we will also be  
 19 reducing our spending authority by  
 20 approximately \$1.4 million. And that's  
 21 based a lot on the current economic  
 22 situation that we as a state and this  
 23 country are in which have a real effect

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1           on reducing the amount of fees that we  
 2 collect and that people pay in to ADEM  
 3 for the services we render such as  
 4 permits and solid waste and other items  
 5 there.

6           So we will be -- our budget  
 7 will be reduced or has been reduced over  
 8 \$2 million now, some of it in General  
 9 Fund reversion fees, others being a  
 10 capping of spending authority based on  
 11 projections that we now have and how much  
 12 money we will receive.

13           The legislature has come  
 14 into session, and so we'll start talking  
 15 about the 2010 budget as well. And the  
 16 executive budget as introduced reduces  
 17 the ADEM budget by approximately \$1  
 18 million compared to what we received in  
 19 the 2009 budget, what was enacted in that  
 20 budget.

21           The only good news here is  
 22 that the bulk of that cut does come from  
 23 earmarked money that we couldn't

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1           flex -- that were not available for us to  
 2 flexibly use with our programs anyway.  
 3 That's a rundown on budgets. Any  
 4 questions on that before I move on to air  
 5 toxics?

6           MS. ARCHIE: Madam Chair, I  
 7 have a question.

8           DR. GARDNER: Yes.

9           MS. ARCHIE: What's your  
 10 overall decrease in your budget, the  
 11 percentage; do you know? I know you said  
 12 a million dollars.

13           MR. GLENN: Yeah. We have  
 14 \$60 million budget with \$2 million  
 15 decrease, so I guess we're looking at an  
 16 overall 3 percent, if I just did that  
 17 right.

18           MS. ARCHIE: That's on top  
 19 of the prorated -- that's the total with  
 20 proration?

21           MR. GLENN: Total with  
 22 proration. Out of our roughly \$60  
 23 million budget, it has been reduced \$2

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1 million, so that's total. As you know,  
 2 only about 10 percent of our budget comes  
 3 from General Funds, so the activity has  
 4 been mainly on....  
 5 MS. ARCHIE: Thank you.  
 6 MR. GLENN: Yes, ma'am.  
 7 Okay. Now, moving on to air toxics.  
 8 This issue was discussed at this  
 9 Commission level at the Department prior  
 10 to my arrival here and yours -- many of  
 11 yours as well. It continues to be today.  
 12 Recently received some further attention  
 13 by a USA Today article as well as a  
 14 report given to you by Conservation  
 15 Alabama Group.  
 16 We continue to look at and  
 17 work on these issues. Let me focus very  
 18 quickly on just the status of that. The  
 19 delivery of the report presented a great  
 20 opportunity to just get you up to speed  
 21 on where we are on this and some of the  
 22 Department's thoughts on some of the  
 23 things that we're doing here.

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1 But just my initial reaction  
 2 to that report is that it appears they've  
 3 accurately taken monitoring data, real  
 4 true gauge data, and compared it to, I  
 5 believe it was IRIS. They compared it to  
 6 it and drew conclusions. And it appears  
 7 that was done. My first read of it and  
 8 our staff's initial read, that was done  
 9 accurately.  
 10 We are working with the  
 11 authors of that report though and have  
 12 had conversations with them and are  
 13 working to provide a more detailed  
 14 critique of that with a deadline they  
 15 placed on themselves by the end of this  
 16 month. So we're continuing to work in  
 17 that area.  
 18 The Conservation Alabama  
 19 Group even made a couple recommendations  
 20 to you, so I'm going to use that as the  
 21 opportunity to speak very quickly about  
 22 where we are on the whole issue of air  
 23 toxics. And the recommendations were get

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1 more data and fundamentally change how  
 2 you regulate air toxics. That was the  
 3 two things that -- the two paths that  
 4 were taken.  
 5 First, on how we regulate  
 6 air toxics: When we regulate air toxics  
 7 -- and I'm talking now mainly about the  
 8 non-criteria pollutants, the vast number  
 9 of air toxics that are not like ozone or  
 10 fine particles, those things that we talk  
 11 about in a little different vein here.  
 12 We regulate those exactly  
 13 how Congress had enacted when they,  
 14 rewrote the Clean Air Act in the early  
 15 '90s using MACT -- M-A-C-T -- Maximum  
 16 Available Control Technologies. And what  
 17 that is in general is national scientists  
 18 decide what type of control technology is  
 19 the maximum available for a industry type  
 20 to put on to control their emissions.  
 21 And so you could imagine  
 22 there are hundreds of these MACTs out  
 23 there that apply to industries all across

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1 the state and this country. And so  
 2 that's how we regulate. We ensure that  
 3 the people who are supposed to install  
 4 that equipment do that and run it  
 5 properly. That's our regulatory scheme  
 6 that has been adopted by the Commission,  
 7 suggested by -- discussed at Congress and  
 8 put in the Clean Air Act and that we  
 9 implement here daily.  
 10 Once EPA adopts those MACTs,  
 11 they do have a step that follows that. I  
 12 think it's called a residual risk  
 13 analysis where they look and evaluate  
 14 whether they think that's effective or  
 15 not, that's an appropriate control. So  
 16 they go through that at the federal level  
 17 before adopting these and decide whether  
 18 or not they need to require the states or  
 19 require the country to do more regulation  
 20 than just that. That's just a side that  
 21 happens as part of that process.  
 22 Now I'm going to talk about  
 23 data real quick, and I'll jump to my

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| <p>1 conclusions on it. We have a lot of<br/>                 2 data. We have -- especially for the<br/>                 3 areas that as a regulator and a citizen<br/>                 4 would be most concerning to me, and it's<br/>                 5 the concentration of industries in Mobile<br/>                 6 area as well as Jefferson County area.<br/>                 7 There's a lot of data in that area.<br/>                 8 What we don't have absolute<br/>                 9 clarity on here in the state is what to<br/>                 10 compare that data to to draw conclusions.<br/>                 11 You see different things being used to<br/>                 12 compare the data to throughout the<br/>                 13 country and even throughout different<br/>                 14 reports here in the state to draw<br/>                 15 conclusions. And, of course, whatever<br/>                 16 you compare the data to affects the<br/>                 17 conclusion you draw.<br/>                 18 And so I personally feel, on<br/>                 19 behalf of the Department, we should place<br/>                 20 some attention on that side of it more so<br/>                 21 than going out and collecting more data<br/>                 22 right now since we have it for the areas<br/>                 23 that would be most concerning to the</p> | <p>1 about that in just a moment when I talk<br/>                 2 about operating plans. It may make a<br/>                 3 little more sense then. But if our<br/>                 4 method of regulating air toxics is<br/>                 5 through the implementation of Maximum<br/>                 6 Available Control Technologies, then one<br/>                 7 thing you'll see us focus on is the<br/>                 8 compliance rate and the compliance status<br/>                 9 of people who are implementing MACTs,<br/>                 10 MACTs standards, and see how they're<br/>                 11 doing with that.<br/>                 12 So that's the two areas that<br/>                 13 the Department is heading down in this<br/>                 14 direction. And on that, be happy to<br/>                 15 answer any questions about air toxics<br/>                 16 before we move on to the next topic on my<br/>                 17 list here.<br/>                 18 DR. GARDNER: Are there any<br/>                 19 questions from the Commission? (No<br/>                 20 response.) Okay.<br/>                 21 MR. GLENN: And again, Chair<br/>                 22 Gardner, I apologize for the difference<br/>                 23 in how I'm presenting today, because</p>     |
| Page 14  | Page 16   |
| <p>1 Department, speaking on behalf of us<br/>                 2 right now in the state of Alabama.<br/>                 3 Along those lines, I'm<br/>                 4 looking at two things to focus some<br/>                 5 energy on here at the Department in the<br/>                 6 short term. This is in addition to<br/>                 7 continuing to work with the authors of<br/>                 8 the report on the report and continuing<br/>                 9 that path.<br/>                 10 But first, regarding what to<br/>                 11 compare the data to, I propose to begin<br/>                 12 some conversations with Dr. Williamson,<br/>                 13 my peer at the Health Department, to<br/>                 14 begin discussing what we compare this<br/>                 15 data to, what conclusions do we draw so<br/>                 16 that I can be in a position to better<br/>                 17 inform you as to what the health<br/>                 18 professionals in the state of Alabama and<br/>                 19 I, what those two agencies together are<br/>                 20 working on and discussing.<br/>                 21 I plan to head down that<br/>                 22 direction as well as focus on the<br/>                 23 compliance of MACTs. You'll hear more</p>  | <p>1 we're only talking about three major<br/>                 2 things, and I wanted to stop at each one<br/>                 3 so we didn't get lost there in the<br/>                 4 conversation.<br/>                 5 Now on to the last item that<br/>                 6 I've got here is the Operating Plan. As<br/>                 7 you know, y'all adopted a Unified<br/>                 8 Strategic Plan. You should each have a<br/>                 9 copy of this document, just an easy read<br/>                 10 of the plan. There are copies of it<br/>                 11 outside as well. There's also a few<br/>                 12 little -- you see just a small<br/>                 13 introduction of some of that.<br/>                 14 I see -- Commissioner<br/>                 15 Phillips is holding a card there.<br/>                 16 Chairman Gardner's got the plan. I don't<br/>                 17 know if y'all've seen the little<br/>                 18 bookmarks. So we have different items<br/>                 19 that we are producing to help roll out<br/>                 20 this particular plan. Some of this is<br/>                 21 outside for the public as well.<br/>                 22 The plan envisions the<br/>                 23 Department proposing some very real</p> |

|  |  |
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| Page 17  | Page 19  |
| <p>1 actionable steps that could be taken to<br/>                 2 further the vision and the goals that are<br/>                 3 contained in the plan. That's what we've<br/>                 4 done through something called the<br/>                 5 Operating Plan. Jumping into that very<br/>                 6 quickly, the operating plan has a couple<br/>                 7 of main topics in it.<br/>                 8 First, compliance. There<br/>                 9 are two elements on compliance, but we<br/>                 10 will take steps in an effort to increase<br/>                 11 the compliance rate of regulated entities<br/>                 12 and to increase the focus of our<br/>                 13 resources on to compliance assistance.<br/>                 14 And there's two projects:<br/>                 15 Number one, the Regulatory Conference<br/>                 16 Project. We're going to build on the<br/>                 17 success of last year's conference and<br/>                 18 shift more of the focus toward a<br/>                 19 compliance assistance conference to be<br/>                 20 held during this fiscal year.<br/>                 21 Tentatively, we're looking at late May<br/>                 22 for that conference. Of course, we'll be<br/>                 23 getting that information to you.</p> | <p>1 the Department will propose no less than<br/>                 2 one, no more than three meaningful<br/>                 3 programs or projects or activities that<br/>                 4 if were implemented, we feel would have a<br/>                 5 positive effect on compliance in Alabama.<br/>                 6 And so we deliver you data, deliver you<br/>                 7 our plan to implement some things to<br/>                 8 affect that data, continue to monitor,<br/>                 9 and see how it works and offer new things<br/>                 10 as we've talked about before. Wash,<br/>                 11 rinse, repeat. Wash, rinse, repeat.<br/>                 12 Keep going so that we're<br/>                 13 focusing our efforts on results and<br/>                 14 looking at if we're going to embark on a<br/>                 15 regulatory conference, well, let's see if<br/>                 16 that can increase compliance. Let's see<br/>                 17 if we can change this program; let's see<br/>                 18 if we can provide a different resource to<br/>                 19 regulate entities. Whatever it might be<br/>                 20 to take meaningful, real steps and gauge<br/>                 21 them against performance and then<br/>                 22 decide -- and then decide as a group are<br/>                 23 those steps working, or do we need to do</p> |
| Page 18  | Page 20  |
| <p>1 The next project is increase<br/>                 2 compliance rate. Bear with me on this<br/>                 3 one. This is probably the most involved<br/>                 4 of anything I'll discuss with you right<br/>                 5 now. And what I'm doing is I'm reading<br/>                 6 from the draft plan that I distributed to<br/>                 7 each of y'all a week or so ago.<br/>                 8 The first thing we have to<br/>                 9 do there is define how we talk about<br/>                 10 compliance between the Commission and the<br/>                 11 Department; reach some agreement or<br/>                 12 acknowledge some method of speaking about<br/>                 13 compliance so we know where we stand and<br/>                 14 how effective our efforts are.<br/>                 15 Once we do that, we need to<br/>                 16 begin delivering data to you about what<br/>                 17 are those rates, how are people<br/>                 18 complying. If we look at compliance by a<br/>                 19 certain method here or we collect a<br/>                 20 certain amount of data and that's how<br/>                 21 we're going to look at it, let's collect<br/>                 22 that data; report that to you.<br/>                 23 When we report that to you,</p>  | <p>1 something different. That's compliance.<br/>                 2 Resource utilization was<br/>                 3 discussed a lot in the Strategic Plan.<br/>                 4 We will take actions, very specific<br/>                 5 actions, to more efficiently and<br/>                 6 effectively utilize our resources. This<br/>                 7 was a major component of the 2004<br/>                 8 Strategic Plan, and we've talked about<br/>                 9 many of the things we've done in this --<br/>                 10 in that area for the past four years<br/>                 11 since I've been here.<br/>                 12 We'll continue those efforts<br/>                 13 and continue to implement those and<br/>                 14 continue in that area. But we'll also<br/>                 15 focus on very specific and have a very<br/>                 16 deliberate conversation with you about<br/>                 17 our field operations group. We have an<br/>                 18 invaluable resource in our field<br/>                 19 operations group having a presence all<br/>                 20 throughout the state of Alabama, not just<br/>                 21 here in Montgomery. And we feel as a<br/>                 22 Department we can better capitalize on<br/>                 23 that resource.</p>  |

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1           So we're going to give you  
 2 reports based on where we are now and  
 3 plans on how to better utilize that and  
 4 reports on how we're implementing that.  
 5 So we'll have some very clear  
 6 communications between the Department and  
 7 the Commission on -- in that area.  
 8           Speed. Decreasing the  
 9 amount of time it takes us to do "dot,  
 10 dot, dot." I think we've all recognized  
 11 that it is extremely valuable here,  
 12 whether it's responding to complaints,  
 13 evaluating permit applications and  
 14 requests, performing compliance  
 15 evaluations, or making enforcement  
 16 decisions or even executing those  
 17 enforcement decisions.  
 18           Closing those items out  
 19 assuming a high-quality product is  
 20 something that we're going to focus more  
 21 energy on and discuss those timelines and  
 22 set goals for each one of our programs in  
 23 each one of these areas and to have us

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1           a -- some information that we can look at  
 2 as a group and speak about and talk about  
 3 and see what actions we need to take to  
 4 affect those things.  
 5           Data collection is the last  
 6 thing you have here. We will maximize  
 7 the number of programs using electronic  
 8 data collection mechanisms. Instead of  
 9 taking field notes on a piece of paper,  
 10 doing it on a computer eliminates the  
 11 need to retype it in, that kind of thing.  
 12 So we're going to give you a report on  
 13 where we are on that and a plan to  
 14 increase that.  
 15           That all ties into  
 16 information availability. What we've  
 17 been talking about so far is creating  
 18 information; now making that available.  
 19 And so we will take actions to increase  
 20 the accessibility of that information.  
 21           The E-file we've talked  
 22 about, we mentioned this in the December  
 23 meeting, but our target date is before

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1           summertime really gets going, the end of  
 2 May, to make the initial set of files  
 3 available via the internet and to assist  
 4 regulated entities as well as  
 5 people -- anyone interested in the files  
 6 being able to see those files and what  
 7 they are, which will hopefully be a much  
 8 better utilization of our resources as  
 9 well as the citizens in Alabama, the  
 10 regulated entities in Alabama, their  
 11 resources and retrieving this type of  
 12 information.  
 13           Project status: We'll  
 14 implement -- we must have an internal  
 15 system in place to capture the status of  
 16 these things that we're tracking goals on  
 17 like permits, compliance-enforcement  
 18 activities. So we're going to formalize  
 19 that and put that in a report to you as  
 20 well.  
 21           Transparency. We'll begin  
 22 sharing all this in an agreed-upon format  
 23 with you so it's most meaningful to you

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1           to get a snapshot of where we are as a  
 2 Department. The goal is that very, very  
 3 rapidly for y'all to be able to look at  
 4 something and see are we winning or  
 5 losing compared to where we expect to be  
 6 at that point in time.  
 7           And lastly, assist the  
 8 Commission. That's just making sure it's  
 9 real clear that we're available and  
 10 prepared to assist the Commission in any  
 11 activities and efforts that you choose to  
 12 put in place regarding your operations,  
 13 and I'm particularly talking about  
 14 preparing for Commission meetings and  
 15 discussing agenda items. Whatever you  
 16 might want on that, we're prepared to  
 17 assist in that area.  
 18           The last item on there is  
 19 internal management things. This is  
 20 getting -- again, defining what we'll  
 21 report and discuss with you about. But  
 22 unless there is absolute clear line of  
 23 sight all the way up and down my

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1 organization and across all aspects of  
 2 it, clear line of sight between our  
 3 operations, your vision and your goals,  
 4 and what our performance is like, we're  
 5 less likely to all be successful.  
 6 And so we're going to take  
 7 specific efforts to increase that clarity  
 8 and that line of sight and report back to  
 9 you our efforts and how we feel that's  
 10 working and what we're going to do  
 11 differently in that area.  
 12 Lastly, quality management.  
 13 Again, we've talked about this for years  
 14 now, but of course, everything I've  
 15 talked about assumes a high quality  
 16 product. And so making sure that our  
 17 programs have expectations and that we  
 18 step back and evaluate the performance  
 19 and the results of those efforts and of  
 20 those products against those  
 21 expectations, that will be one of the  
 22 metrics and one of the items that we'll  
 23 be discussing with you is the results of

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1 those audits, if you will, or whatever  
 2 word you'd like to put on that.  
 3 You've got some specific  
 4 proposed dates in there. This is a  
 5 little different format we're looking at  
 6 for the current year we're involved in  
 7 now. You see some stuff happening in  
 8 this second quarter we're in right now  
 9 with more things happening in the third  
 10 quarter and the fourth and a few things  
 11 carrying on over into next fiscal year.  
 12 Now, as I think you've all  
 13 acknowledged, we acknowledge, things  
 14 change and we're going to learn lessons.  
 15 And so we're going to need to revisit  
 16 this at least yearly. And so -- but this  
 17 at least lays out how the things  
 18 happening during this fiscal year might  
 19 potentially fit in with what might follow  
 20 in the next fiscal year and on from  
 21 there.  
 22 So that's what I intended by  
 23 putting up the next fiscal year deadlines

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1 here, realizing that we'll be  
 2 collectively revisiting this whole thing  
 3 periodically. With that said, Madam  
 4 Chair, open for any questions you have.  
 5 DR. GARDNER: Any questions  
 6 from the Commission? Mr. Wainwright?  
 7 MR. WAINWRIGHT: Madam  
 8 Chair, my question is, are these projects  
 9 that you've proposed tied to the budget?  
 10 Is there a means of setting priorities if  
 11 you can't accomplish all of them on the  
 12 one budget?  
 13 MR. GLENN: Yes, sir, there  
 14 is. Some of these -- and -- but some of  
 15 these projects, quite honestly, are  
 16 self-serving though. In budget -- in the  
 17 budget circumstances that we're in, if we  
 18 can more readily know the status of  
 19 projects that are ongoing here, then we  
 20 spend less time worrying about the status  
 21 of projects.  
 22 And so a lot of these things  
 23 we're looking at here, we envision them

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1 in light of the budget that we had this  
 2 year and what we anticipate next year,  
 3 looking at taking what I think are very  
 4 meaningful steps to function as you  
 5 envision us functioning in light of the  
 6 budget circumstances that we have.  
 7 So these are -- we've not  
 8 put specific dollar amounts, how much  
 9 will this cost, on each one of these.  
 10 That's an effort we could work on. Some  
 11 of them are so intertwined into our  
 12 operations though, that would be a little  
 13 more challenging than some other things  
 14 we've done.  
 15 And -- but this is a little  
 16 more focused on how we do things, not  
 17 necessarily what we do. And so that's  
 18 the concept that I saw throughout the  
 19 Unified Strategic Plan was a systematic  
 20 view of how we do our business, and  
 21 that's what we built on here in proposing  
 22 this Operating Plan to you today. Does  
 23 that help answer that?

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| <p>1 DR. GARDNER: Any further<br/>2 questions? Mr. Glenn, I had just -- I'm<br/>3 not real clear on this time frame for<br/>4 determining the compliance standards.<br/>5 MR. GLENN: What I propose<br/>6 is no later than the end of this summer,<br/>7 August, proposing to you, reporting to<br/>8 you, what we feel is the most appropriate<br/>9 way to view compliance at this point.<br/>10 We're going to be limited to the data we<br/>11 collect. But the deliverable that I<br/>12 propose is August 31st to have a report<br/>13 to you.<br/>14 We certainly -- this is<br/>15 integral to everything we do here. This<br/>16 is a very high priority amongst all the<br/>17 things you see in this report, and so I<br/>18 think it will take us at least three<br/>19 months to do this. But that gives us<br/>20 six. And that's really, I think, one of<br/>21 the only, you know, ranges of<br/>22 deliverables that we've put in here<br/>23 because we want to spend enough time on</p>         | <p>1 experience, wisdom, and foresight in the<br/>2 Commission's deliberations on significant<br/>3 issues; and whereas her dedicated service<br/>4 resulted in the continuation of an<br/>5 effective program of environmental<br/>6 management for the State of Alabama; and<br/>7 whereas her leadership abilities were<br/>8 recognized by her election as Vice-Chair<br/>9 of the Commission in October 2006, a<br/>10 position she held until October of 2007;<br/>11 and whereas her efforts have improved the<br/>12 ability of the state to respond in an<br/>13 efficient, comprehensive, and coordinated<br/>14 manner to environmental problems ensuring<br/>15 for all citizens of the state a safe,<br/>16 healthful, and productive environment;<br/>17 and whereas her contributions have<br/>18 resulted in more effective protection of<br/>19 our air, land, water, and coastal<br/>20 resources, a major challenge in growth<br/>21 and development in Alabama; and whereas<br/>22 her dedication to effectively resolving<br/>23 environmental issues, often at great</p> |
| Page 30  | Page 32  |
| <p>1 this to have something that will be very<br/>2 meaningful for the long term.<br/>3 But at some point in time,<br/>4 you do have to to put a deadline on it<br/>5 because you can evaluate compliance a<br/>6 thousand different ways depending on what<br/>7 what your perspective is and how you look<br/>8 at it. Anything else?<br/>9 DR. GARDNER: Thank you, Mr.<br/>10 Glenn. Agenda Item 3, we're going to<br/>11 consider an adoption of a resolution for<br/>12 former Commissioner Kathleen Felker. I<br/>13 think that everyone is probably aware<br/>14 that Dr. Felker has resigned, and she's<br/>15 pursuing other interests at this time.<br/>16 But we've got a resolution. I'm just<br/>17 going to read it out loud:<br/>18 "Whereas Kathleen J. Felker,<br/>19 M.D., has served as a member of the<br/>20 Alabama Environmental Management<br/>21 Commission from January 4th, 2006, until<br/>22 January 29th, 2009; and whereas due to<br/>23 her medical expertise she has provided</p> | <p>1 personal effort and sacrifice; now,<br/>2 therefore, be it resolved that the<br/>3 Alabama Environmental Management<br/>4 Commission expresses gratitude to<br/>5 Kathleen J. Felker, M.D., for her<br/>6 significant contribution to a better<br/>7 environment and an improved quality of<br/>8 life for the citizens of Alabama. Done<br/>9 this 20th day of February, 2009."<br/>10 MS. THOMAS: Do you want a<br/>11 motion to adopt the resolution?<br/>12 DR. GARDNER: Do I have a<br/>13 motion to adopt this resolution?<br/>14 MR. PHILLIPS: So move.<br/>15 DR. GARDNER: Do I have a<br/>16 second?<br/>17 MR. HAIRSTON: Second.<br/>18 DR. GARDNER: Do I have any<br/>19 discussion? (No response.) All in<br/>20 favor, signify by saying aye.<br/>21 ALL: Aye.<br/>22 DR. GARDNER: All opposed?<br/>23 (No answer.)</p>  |



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1 Moving on to Item No. 4.  
 2 This is the report from the Rulemaking  
 3 Committee. And before I call on Chair  
 4 Archie to give us the committee report, I  
 5 just want to publicly thank the members  
 6 of this committee for working as hard as  
 7 they did on the things. They really  
 8 showed unity, and I was very glad to see  
 9 that. Publicly, I'd like to thank y'all  
 10 for your hard work.  
 11 Ms. Archie?  
 12 MS. ARCHIE: Thank you very  
 13 much. We did put a lot of time into  
 14 this. We actually met on two occasions,  
 15 one actually this morning. Very  
 16 productive meeting. As you're aware that  
 17 Commissioner Phillips had got comments  
 18 and suggestions from each Commissioner  
 19 regarding operation standard or code of  
 20 conduct for the Commission as a body.  
 21 We had a very good  
 22 discussion, and basically we came to a  
 23 conclusion of two things: Number one,

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1 that maybe we should adopt a resolution  
 2 to deal with issues that may come up  
 3 during the period that we're not meeting  
 4 as a body that may be of substantial  
 5 interest to the entire Commission that  
 6 may involve a lot of time of staff to  
 7 actually look into those issues, and so  
 8 we actually came up with a resolution.  
 9 And I worked with Attorney Tambling on  
 10 that resolution.  
 11 We also as -- that was one  
 12 part. The second part was take other  
 13 comments and suggestions from the  
 14 document that Commissioner Phillips had  
 15 put together and possibly address those  
 16 issues one by one. We probably will do  
 17 that, but we probably will do that at  
 18 other Commission meetings, to look over  
 19 that document and decide whether we need  
 20 to take any further action.  
 21 But at this time at today's  
 22 meeting, we -- I would like to actually  
 23 offer a resolution that deals with the

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1 operation of the Commission during times  
 2 that -- that there may be interest or  
 3 substantial interest to the entire body,  
 4 certain direction to the -- to  
 5 the -- excuse me -- Director.  
 6 I would like to read the  
 7 resolution and get any comments on it  
 8 before we actually -- I actually ask for  
 9 a motion. The resolution provides,  
 10 "Whereas it's a function of the  
 11 Environment Management Commission  
 12 pursuant to Section 22-22A-6(a)(3) of the  
 13 Alabama Environmental Management Act to  
 14 develop the environmental policy for the  
 15 state; and whereas environmental issues  
 16 may arise between meetings of the  
 17 Environmental Management Commission that  
 18 may be of interest to individual  
 19 Commission members; and whereas the  
 20 Director and Department staff may need to  
 21 devote substantial time and resources to  
 22 properly address these issues; therefore,  
 23 be it resolved that should a Commission

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1 member request the Director to take  
 2 action on any matter, then the Director  
 3 shall immediately notify the Commission  
 4 Chair for direction with regard to the  
 5 resolution of the matter. The Chair  
 6 shall report the disposition of the  
 7 matter to the full Commission at the next  
 8 regularly-scheduled meeting of the  
 9 Commission."  
 10 That is the resolution, and  
 11 I move for adoption of the resolution.  
 12 DR. GARDNER: We have a  
 13 motion. Is there a second?  
 14 MR. WAINWRIGHT: Second.  
 15 DR. GARDNER: Is there any  
 16 discussion on this resolution?  
 17 MR. HAIRSTON: Doesn't this  
 18 give the Director -- I mean, the Chair  
 19 the discretion on how to handle this?  
 20 DR. GARDNER: In the interim  
 21 between meetings.  
 22 MR. HAIRSTON: I don't know  
 23 if I can agree. Well, what is it that

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1 you expect that the Chair's going to be  
 2 able to do if somebody calls and they've  
 3 got an issue they feel like Trey can  
 4 respond to as the Director?  
 5 MS. ARCHIE: Basically, what  
 6 the resolution is, it's a  
 7 management-of-time issue of there may be  
 8 issues that are of concern to every  
 9 Commissioner; it may require a lot of  
 10 time of the staff. And so we're trying  
 11 to actually -- really trying to, number  
 12 one, you know, manage the request that  
 13 may come to the Director from the  
 14 Commission members and then -- so that if  
 15 it requires a lot of time and effort  
 16 that -- and it may impact the ability to  
 17 deliver information, that actually the  
 18 Chair, who we select as Chair, actually  
 19 talk with the Commissioner regarding  
 20 it -- regarding the Director, regarding  
 21 the matter.  
 22 MR. HAIRSTON: Why couldn't  
 23 Trey do that?

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1 MS. ARCHIE: Well, I mean,  
 2 we're just trying to formalize a process.  
 3 If we actually have -- we we vote for  
 4 Chair and Vice-Chair, and we hold them  
 5 out to act as -- for the entire body  
 6 because we elected them in those  
 7 positions. We just want to make sure  
 8 that the flow of information comes  
 9 through that Chair.  
 10 DR. GARDNER: Probably needs  
 11 to be made clear, if I'm understanding  
 12 the discussion that went on at the  
 13 original first Rulemaking Committee  
 14 Meeting, that at any point, the Chair  
 15 would make the determination whether that  
 16 time and resources needs to be expended  
 17 at that time, but then at the next  
 18 Commission meeting, if the rest of the  
 19 Commission -- if the Commission as a body  
 20 decides that that project is not  
 21 worthwhile or what have you, then at the  
 22 that point the rest of the Commission can  
 23 make a statement on it.

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1 This was an attempt to  
 2 manage that time in between the meetings  
 3 when so much of the Department's and the  
 4 Director's resources were being used up  
 5 in special projects.  
 6 MR. HAIRSTON: Well, I guess  
 7 it seems to me that if I've got an issue  
 8 and I want to call and talk to Trey about  
 9 it, you as the Chair shouldn't have the  
 10 discretion to say whether or not what I  
 11 feel is important should be addressed,  
 12 you know, when I want it or when you want  
 13 it. I think that kind of goes across a  
 14 gray area of what we as appointees have  
 15 been asked to do, and that is to  
 16 represent the various interests that we  
 17 have.  
 18 I can see where it may be  
 19 well-intentioned, but I wouldn't want my  
 20 right to pursue an action for someone  
 21 that confided in me with a problem to be  
 22 addressed or not addressed based on some  
 23 procedure that gives someone who's not

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1 really involved the discretion to  
 2 determine whether or not it can be  
 3 addressed right then.  
 4 MS. ARCHIE: I think  
 5 you -- if I may...  
 6 DR. GARDNER: Yes, Ms.  
 7 Archie.  
 8 MS. ARCHIE: It's more --  
 9 it's not saying that your rights are  
 10 going to be limited where you cannot get  
 11 a question answered. It's when that  
 12 particular issue -- there may be several  
 13 issues that come up that some direction  
 14 he has -- he has to have some type of  
 15 direction from the Commission which one  
 16 is the top priority.  
 17 It's not saying that the  
 18 issue will not be addressed, but it's  
 19 actually trying to manage that time. It  
 20 may be a concern that he may get, you  
 21 know, several requests at one time and  
 22 trying to respond to the requests of each  
 23 individual Commissioner that he has the

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1 Chair to go to to try to prioritize that  
 2 issue.  
 3 So it's not limiting any  
 4 Commissioner's right on any issue.  
 5 Matter of fact, we had extensive  
 6 discussion of that in our first meeting  
 7 that that is not our intent. It's  
 8 actually the flow and the time that the  
 9 staff had --  
 10 MR. HAIRSTON: Anita, I  
 11 don't want want to belabor the point.  
 12 But is there something that happened that  
 13 you could use as an example as to what  
 14 generated the thought that this is  
 15 needed? What kind of situation has come  
 16 up where there is the perception that  
 17 there's too much demand on Trey's time  
 18 that he can't tell us exactly what you're  
 19 saying the --  
 20 DR. GARDNER: Mr.  
 21 Wainwright?  
 22 MR. HAIRSTON: -- the Chair  
 23 could tell us?

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1 MR. WAINWRIGHT: The -- the  
 2 Director reported to us -- the Director  
 3 reported to us that 50 percent of his  
 4 time was being taken up answering  
 5 questions from the whole body, the  
 6 Commissioners. I believe we acted as  
 7 a -- as a body, not as individuals; that  
 8 our actions are as a body.  
 9 I don't think this would  
 10 interfere with asking Trey questions over  
 11 the telephone, but if you requested him  
 12 to do an extensive study or to take an  
 13 action that didn't -- wasn't  
 14 representative of this Commission, then  
 15 this would be a means of at least getting  
 16 the Chair's opinion on it.  
 17 You know, if you had  
 18 something to request, call the Chair and  
 19 see if you can work it out. It makes us  
 20 act more as a body than as individuals.  
 21 DR. GARDNER: This is more  
 22 about requests for Trey to take action on  
 23 long-term projects than it is dealing

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1 with an immediate situation.  
 2 MR. HAIRSTON: I guess I  
 3 just kind of see it as an impediment to  
 4 each individual Commissioner's right to  
 5 be an advocate for whatever issue they  
 6 see, you know, is important. And I don't  
 7 think we ought to -- I really don't think  
 8 from a regulation standpoint that that's  
 9 a role that the Chair is afforded.  
 10 They're just supposed to  
 11 deal with breaking the tie in the  
 12 meetings or that kind of thing. They're  
 13 not supposed to be doing that kind of  
 14 thing. I guess I understand the problem,  
 15 but I think we -- we may be trying to  
 16 limit too much from my -- my call. I'm  
 17 just one vote. I won't hold you up  
 18 anymore.  
 19 DR. GARDNER: Is there any  
 20 further discussion regarding resolution?  
 21 (No response.) Okay. All in favor of  
 22 the resolution, say aye. (Affirmative  
 23 response.) All opposed, same sign.

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1 MR. HAIRSTON: Aye.  
 2 DR. GARDNER: The motion  
 3 carries.  
 4 Moving on to Agenda Item No.  
 5 5. We will consider the adoption of  
 6 proposed amendments to Division 3 - Air  
 7 Regulations.  
 8 MR. GORE: Madam Chair,  
 9 Ladies, Gentlemen, my name's Ron Gore  
 10 with the Department's Air Division. I'm  
 11 here to present some possible changes to  
 12 the Department's air rules. Before I go  
 13 into a little detail about what is before  
 14 you today, I'd like to mention the  
 15 procedural details.  
 16 We held a public comment  
 17 period which began on October 27th, ended  
 18 on December the 12th; public hearing on  
 19 December the 10th. There were no oral or  
 20 written comments about these rules.  
 21 Now for a little detail:  
 22 Back in 2004 and '5, EPA adopted two  
 23 major cap-and-trade programs applicable

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| <p>1 to the entire country covering three<br/>                 2 pollutants. One rule's called the CAIR<br/>                 3 rule, the Clean Air Interstate Rule, and<br/>                 4 it required significant reductions across<br/>                 5 the country of nitrogen oxides and sulfur<br/>                 6 dioxide, both of which are instrumental<br/>                 7 in producing ozone and fine particles,<br/>                 8 and it also based a cap-and-trade program<br/>                 9 for mercury.<br/>                 10 You, this body, adopted the<br/>                 11 state rules implementing those programs<br/>                 12 in 2006. Ever since EPA adopted those<br/>                 13 rules five or six years ago, they've been<br/>                 14 under fire at the federal court level.<br/>                 15 And some months ago, the mercury rule was<br/>                 16 completed voided by federal court,<br/>                 17 meaning this trading program is off the<br/>                 18 books now at the federal level. And so<br/>                 19 today we're recommending that you take<br/>                 20 those rules off the books at the state<br/>                 21 level as well because there's no trading<br/>                 22 program out there to participate in.<br/>                 23 The CAIR rule for the other</p> | <p>1 called coal benefits. That means that<br/>                 2 the air pollution controls for these<br/>                 3 other pollutants, the sulfur dioxide and<br/>                 4 the nitrogen oxides, have a beneficial<br/>                 5 effect on reducing mercury as well.<br/>                 6 So the whole first four or<br/>                 7 five years of the Federal Mercury<br/>                 8 Reduction Program depended on the mercury<br/>                 9 reductions that would occur for almost<br/>                 10 all the controls for these other two<br/>                 11 pollutants. Then in about 2014 or '15, a<br/>                 12 second phase of the mercury program would<br/>                 13 have kicked in that would require more<br/>                 14 mercury reductions than this first phase.<br/>                 15 So unless EPA fails to go<br/>                 16 back and fix this mercury rule, your<br/>                 17 voiding of this rule will have no effect<br/>                 18 on the mercury emission in this state<br/>                 19 until at least 2013 or '14. So I hope I<br/>                 20 didn't confuse you, and pending any<br/>                 21 questions, we'd request you adopt these<br/>                 22 changes.<br/>                 23 DR. GARDNER: Does the</p> |
| Page 46  | Page 48   |
| <p>1 two pollutants has been under a lot of<br/>                 2 fire, too, and about two months ago, a<br/>                 3 federal court ruled that even though<br/>                 4 there were flaws in the rule, the rule<br/>                 5 could stay in effect until EPA corrected<br/>                 6 the defects. And my best guess is that<br/>                 7 the federal rules stay in place for at<br/>                 8 least one to four years.<br/>                 9 So what we're asking you to<br/>                 10 do today is to void the mercury rule<br/>                 11 completely out of the state books and to<br/>                 12 make a logic error change in the CAIR<br/>                 13 rule that EPA has already made.<br/>                 14 Now, if I were sitting in<br/>                 15 your chairs I would ask the question,<br/>                 16 What effect on mercury emissions is our<br/>                 17 voiding of these rules going to have?<br/>                 18 And the answer to that is very subtle and<br/>                 19 very surprising, and that answer is none,<br/>                 20 in the short run.<br/>                 21 The mercury reductions that<br/>                 22 would have occurred under this trading<br/>                 23 program depended on something that's</p>   | <p>1 Commission have any questions for Mr.<br/>                 2 Gore? (No response.) Thank you for the<br/>                 3 attempt at clarification. Is there a<br/>                 4 motion to adopt?<br/>                 5 MR. PHILLIPS: So move.<br/>                 6 DR. GARDNER: Is there a<br/>                 7 second?<br/>                 8 MR. HAIRSTON: Second.<br/>                 9 DR. GARDNER: Is there any<br/>                 10 further discussion? (No response.) All<br/>                 11 in favor of adopting this, say aye.<br/>                 12 ALL: Aye.<br/>                 13 DR. GARDNER: All opposed,<br/>                 14 same sign? (No response.) Motion<br/>                 15 carries.<br/>                 16 Moving on to Agenda Item No.<br/>                 17 6. We were originally going to consider<br/>                 18 the adoption of an addition to Division 6<br/>                 19 - Water Regulations. The Department has<br/>                 20 requested that we consider tabling this<br/>                 21 issue today. There are a few details<br/>                 22 that need to be worked out. Do I have a<br/>                 23 motion to that effect?</p>  |

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1 MR. PHILLIPS: So move.  
 2 MR. WAINWRIGHT: Second.  
 3 DR. GARDNER: Is there any  
 4 discussion regarding tabling these? (No  
 5 response.) Okay. All in favor of  
 6 tabling, say aye.  
 7 ALL: Aye.  
 8 DR. GARDNER: All opposed,  
 9 same sign? (No response.) Motion  
 10 carries.  
 11 MS. THOMAS: Do you want an  
 12 order and I can write in that motion?  
 13 DR. GARDNER: Moving on to  
 14 Agenda Item No. 7. Commission will  
 15 consider the adoption of proposed  
 16 amendments to Division 14 - Hazardous  
 17 Waste Regulations. Mr. Hardy?  
 18 MR. HARDY: Good Morning,  
 19 Madam Chairman and members of the  
 20 Commission. I am Gerald Hardy, Chief of  
 21 the Land Division. The Department is  
 22 required to ensure that its hazardous  
 23 waste regulations remain equivalent to

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1 the U.S. Environmental Protection Agency  
 2 regulations in order to retain its  
 3 authorization from EPA.  
 4 To maintain this  
 5 equivalency, ADEM must annually revise  
 6 its regulations. Revisions to Division  
 7 14 of the ADEM Administrative Code, which  
 8 are before you for consideration, would  
 9 incorporate hazardous waste regulations  
 10 promulgated by EPA from July the 1st,  
 11 2007, through June the 30th, 2008.  
 12 In this rulemaking, the  
 13 Department is proposing to do the  
 14 following: Add two definitions and  
 15 reformat the definitions to better serve  
 16 the reader; add language to clarify  
 17 certain regulations in the existing  
 18 rules; modify the FO19 listing to exclude  
 19 wastewater treatment sludges from the  
 20 manufacturing of motor vehicles using a  
 21 zinc phosphating process under certain  
 22 conditions; add a requirement for  
 23 generators to make all records available

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1 for inspection upon request; add a  
 2 requirement for corrective action cost  
 3 estimates; clarify requirements for  
 4 obtaining a transporter permit in the  
 5 state of Alabama; update or clarify  
 6 existing requirements with minor  
 7 revisions; and then correct any  
 8 typographical or formatting errors.  
 9 Public notice of the  
 10 proposed changes to the hazardous waste  
 11 regulations began on October the 26th,  
 12 2008, and a public hearing was held on  
 13 December the 11th, 2008. No oral  
 14 comments were received at the public  
 15 hearing. No written comments were  
 16 received during the comment period that  
 17 ended on December the 12th, 2008.  
 18 On February the 18th of  
 19 2009, the State Committee of Public  
 20 Health concurred with the Department's  
 21 recommendation to adopt these rules as  
 22 proposed. At this time, the Department  
 23 requests the Commission adopt these rules

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1 as recommended, and I'll be glad to  
 2 answer any questions you may have.  
 3 DR. GARDNER: Do I have a  
 4 motion to adopt these rules?  
 5 MR. PHILLIPS: So move.  
 6 DR. GARDNER: Second?  
 7 MR. WAINWRIGHT: Second.  
 8 DR. GARDNER: Are there any  
 9 questions of Mr. Hardy or any discussion?  
 10 (No response.) Thank you. All in favor?  
 11 ALL: Aye.  
 12 DR. GARDNER: All opposed,  
 13 same sign? (No response.) Motion  
 14 carries.  
 15 Moving on to Agenda Item No.  
 16 8. We will consider a joint motion to  
 17 dismiss filed by both parties in the  
 18 Utilities Board of the City of Andalusia  
 19 vs. ADEM, EMC Docket No. 08-06. This is  
 20 an NPDES-related matter. Do I have a  
 21 motion to either grant or deny this  
 22 motion?  
 23 MR. PHILLIPS: I move we

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1 grant.  
 2 DR. LESTER: Second.  
 3 DR. GARDNER: We have a  
 4 motion and a second. Is there any  
 5 discussion? (No response.) All in  
 6 favor, say aye.  
 7 ALL: Aye.  
 8 DR. GARDNER: All opposed,  
 9 same sign. (No response.) The motion  
 10 carries.  
 11 Agenda Item No. 9 is any  
 12 other business. Do any Commissioners  
 13 have any other business we need to  
 14 discuss? (No response.).  
 15 Agenda Item No. 10, the  
 16 proposed date for the next Commission  
 17 meeting is April 17th. The proposed  
 18 location is Huntsville, Alabama. Can all  
 19 Commissioners attend that meeting, first  
 20 of all?  
 21 DR. LESTER: Madam Chairman?  
 22 DR. GARDNER: Yes, sir.  
 23 DR. LESTER: Due to our

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1 MR. HAIRSTON: Aye.  
 2 DR. GARDNER: The meeting  
 3 will be held here at 11 o'clock on April  
 4 17th. If there's nothing else, this  
 5 meeting is adjourned.  
 6 (The Commission meeting concluded  
 7 at approximately 12:18 on February 20, 2009.)  
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1 financial restraints being put on us in  
 2 moving that number of folks of our staff  
 3 and everybody to Huntsville, I'd make a  
 4 motion that we have our next meeting here  
 5 in Montgomery.  
 6 DR. GARDNER: There's a  
 7 motion to move the meeting location back  
 8 here to Montgomery due to financial  
 9 constraints. Do I have a second?  
 10 MR. WAINWRIGHT: I'll second  
 11 it.  
 12 DR. GARDNER: Is there any  
 13 discussion on that?  
 14 MR. HAIRSTON: Can't we just  
 15 get along?  
 16 DR. LESTER: Trying to be  
 17 funny?  
 18 MR. HAIRSTON: Didn't work.  
 19 DR. GARDNER: Any further  
 20 comments? (No response.) All in favor  
 21 of moving the meeting back to Montgomery,  
 22 please say aye. (Affirmative response.)  
 23 All opposed, same sign?

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1 \* \* \* \* \*  
 2 REPORTER'S CERTIFICATE  
 3 \* \* \* \* \*  
 4  
 5 STATE OF ALABAMA  
 6 COUNTY OF MONTGOMERY  
 7  
 8 I, Jenny Cone, Certified Court  
 9 Reporter and Notary Public in and for the  
 10 State of Alabama at Large, do hereby  
 11 certify that the foregoing is a true and  
 12 accurate excerpt of the proceedings as  
 13 taken stenographically by me at the time  
 14 and place aforementioned.  
 15 This 4th day of March, 2009.  
 16  
 17  
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 20 \_\_\_\_\_  
 21 Jenny Cone  
 22 Certified Court Reporter (Lic.  
 23 #108) and Notary Public  
 State of Alabama at Large

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\* \* \* \* \*  
REPORTER'S CERTIFICATE  
\* \* \* \* \*

STATE OF ALABAMA  
COUNTY OF MONTGOMERY

I, Jenny Cone, Certified Court Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify that the foregoing is a true and accurate excerpt of the proceedings as taken stenographically by me at the time and place aforementioned.

This 4th day of March, 2009.

*Jenny Cone /ca*

Jenny Cone  
Certified Court Reporter (Lic. #108) and Notary Public  
State of Alabama at Large





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**Part B**



## **Attachment Index**

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| <b>Attachment 3</b> | <b>Resolution</b><br><b>(Agenda Item 4 – Report from the Rulemaking Committee)</b>   |
| <b>Attachment 4</b> | <b>Resolution adopting amendments to the Division 3 –</b><br><b>Air Regulations</b><br><b>(Agenda Item 5 – Consideration of adoption of proposed</b><br><b>amendments to the Division 3 – Air Regulations)</b>                                     |
| <b>Attachment 5</b> | <b>Order tabling this agenda item</b><br><b>(Agenda Item 6 – Consideration of adoption of proposed</b><br><b>amendments to the Division 6 – Water Quality Regulations</b><br><b>[NPDES-Related Matter])</b>  |
| <b>Attachment 6</b> | <b>Resolution adopting amendments to the Division 14 –</b><br><b>Hazardous Waste Regulations</b><br><b>(Agenda Item 7 – Consideration of adoption of proposed</b><br><b>amendments to the Division 14 – Hazardous Waste</b><br><b>Regulations)</b> |
| <b>Attachment 7</b> | <b>Order granting the Joint Motion to Dismiss</b><br><b>(Agenda Item 8 – Utilities Board of the City of Andalusia v.</b><br><b>ADEM, EMC Docket No. 08-06 [NPDES-Related Matter])</b>  |



**Attachment 1**





Amended 2/4/09

AGENDA\*  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION MEETING  
Alabama Department of Environmental Management (ADEM) Building  
Alabama Room (Main Hearing Room)  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059  
Friday, February 20, 2009  
11:00 a.m.

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| 1. Consideration of minutes of meeting held on December 12, 2008**   | 2           |
| 2. Report from the Director  | 2           |
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| 7. Consideration of adoption of proposed amendments to the Division 14 – Hazardous Waste Regulations                   | 3           |
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| 10. Future business session  | 3           |

\* 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 DECEMBER 12, 2008
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. REPORT FROM THE RULEMAKING COMMITTEE
5. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE DIVISION 3 – AIR REGULATIONS

The Commission will consider proposed amendments to the Division 3 – Air Regulations. The Department proposes to amend ADEM Administrative Code Rules 335-3-5-.06, 335-3-5-.07, 335-3-5-.11, 335-3-5-.13, 335-3-5-.14, 335-3-8-.16, 335-3-8-.17, 335-3-8-.18, 335-3-8-.21, 335-3-8-.23, 335-3-8-.25, 335-3-8-.30, 335-3-8-.32, and 335-3-18-.01, and delete Rules 335-3-21-.01, 335-3-21-.02, 335-3-21-.03, 335-3-21-.04, 335-3-21-.05, 335-3-21-.06, and 335-3-21-.07. The Department held a public hearing on the proposed amendments on December 10, 2008.

6. CONSIDERATION OF ADOPTION OF PROPOSED ADDITION TO THE DIVISION 6 – WATER QUALITY REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider the proposed addition of a new chapter 335-6-13 – Financial Assurance Requirements for Privately-Owned Sewage Treatment Systems. The purpose of adding this new chapter to the division 335-6 Code is to prevent the discharge of untreated or partially treated sewage by certain privately-owned sewage treatment works lacking adequate resources to operate, maintain, repair or upgrade the treatment works or sewage collection system. The Department held a public hearing on the proposed amendments on January 7, 2009.

7. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE DIVISION 14 – HAZARDOUS WASTE REGULATIONS

The Commission will consider proposed amendments to the Division 14 – Hazardous Waste Regulations. The Department proposes to amend ADEM Administrative Code chapters 335-14 chapter 335-14-1 to 335-14-8, 335-14-11, and 335-14-17. The Department held a public hearing on the proposed amendments on December 11, 2008.

8. UTILITIES BOARD OF THE CITY OF ANDALUSIA V. ADEM, EMC DOCKET NO. 08-06 (NPDES-RELATED MATTER)

The Commission will consider a “Joint Motion to Dismiss of the Utilities Board of Andalusia and the Alabama Department of Environmental Management” in this appeal concerning the Utilities Board of the City of Andalusia, Andalusia Riverside Wastewater Treatment Facility, NPDES Permit AL0055417, Covington County.

9. OTHER BUSINESS

10. FUTURE BUSINESS SESSION



**Attachment 2**



# State of Alabama



## RESOLUTION

WHEREAS, Kathleen J. Felker, M.D., has served as a member of the Alabama Environmental Management Commission from January 4, 2006, until January 29, 2009; and

AND WHEREAS, due to her medical expertise, she has provided experience, wisdom, and foresight in the Commission's deliberations on significant issues;

AND WHEREAS, her dedicated service resulted in the continuation of an effective program of environmental management for the State of Alabama;

AND WHEREAS, her leadership abilities were recognized by her election as Vice Chair of the Commission in October 2006, a position she held until October 2007;

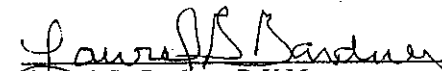
AND WHEREAS, her efforts have improved the ability of the State to respond in an efficient, comprehensive, and coordinated manner to environmental problems, assuring for all citizens of the State a safe, healthful, and productive environment;


AND WHEREAS, her contributions have resulted in more effective protection of our air, land, water, and coastal resources, a major challenge in light of the growth and development in Alabama;

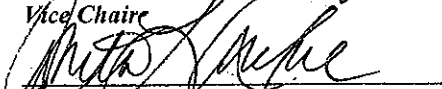
AND WHEREAS, her dedication to effectively resolving environmental issues has often been accomplished at great personal effort and sacrifice; now


THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses gratitude to Kathleen J. Felker, M.D., for her significant contribution to a better environment and an improved quality of life for the citizens of Alabama.

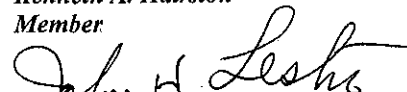
DONE this 20<sup>th</sup> day of February 2009.

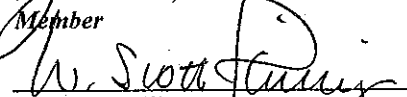
  
Laurel G. Gardner, D.V.M.  
Chair

  
Sam H. Wainwright, P.E.  
Vice Chair

  
Anita L. Archie  
Member

  
Kenneth A. Hairston  
Member

  
John H. Lester, D.V.M.  
Member

  
W. Scott Phillips  
Member





**Attachment 3**



**ENVIRONMENTAL MANAGEMENT COMMISSION**

**RESOLUTION**

**WHEREAS**, it is a function of the Environmental Management Commission, pursuant to Section 22-22A-6(a)(3) of the Alabama Environmental Management Act, to develop the Environmental Policy for the State; and,

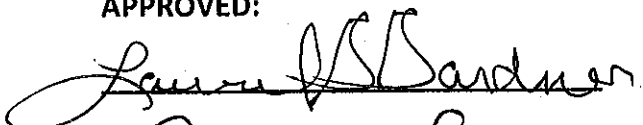


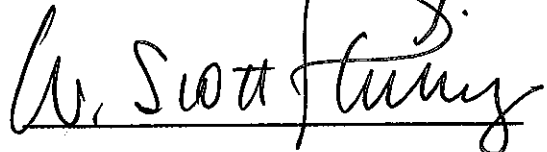
**WHEREAS**, Environmental issues may arise between meetings of the Environmental Management Commission that may be of interest to individual Commission members; and,

**WHEREAS**, the Director and Department staff may need to devote substantial time and resources to properly address these issues.

**THEREFORE, BE IT RESOLVED THAT**, should a Commission member request the Director to take action on any matter, then the Director shall immediately notify the Commission Chair for direction with regard to resolution of the matter. The Chair shall report the disposition of the matter to the full Commission at the next regularly scheduled meeting of the Commission.

**IN WITNESS WHEREOF**, we have affixed our signatures below on this 20<sup>th</sup> day of February 2009.

APPROVED:

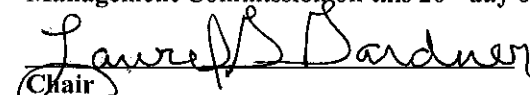
  
  
  


  
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DISAPPROVED:



This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 20<sup>th</sup> day of February 2009.

  
Chair  
Environmental Management Commission  
Certified this 20<sup>th</sup> day of February 2009.



**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 335-3 of the Department's Air Division – Air Pollution Control 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 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 [335-3-05-.06/State Clean Air Interstate Rule (CAIR) SO<sub>2</sub> Trading Program General Provisions (Amend); 335-3-5-.07/CAIR Designated Representative for CAIR SO<sub>2</sub> Sources (Amend); 335-3-5-.11/CAIR SO<sub>2</sub> Allowance Tracking System (Amend); 335-3-5-.13/Monitoring and Reporting (Amend); 335-3-5-.14/CAIR SO<sub>2</sub> Opt-In Units (Amend); 335-3-8-.16/CAIR NO<sub>x</sub> Annual Budget Trading Program (Amend); 335-3-.17/CAIR Designated Representative for CAIR NO<sub>x</sub> Sources (Amend); 335-3-8-.18/CAIR Permits (Amend); 335-3-8-.21/CAIR NO<sub>x</sub> Allowance Tracking System (Amend); 335-3-8-.23/CAIR Monitoring and Reporting (Amend); 335-3-8-.25/CAIR NO<sub>x</sub> Ozone Season Trading Program (Amend); 335-3-8-.30/CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System (Amend); 335-3-8-.32/CAIR NO<sub>x</sub> Ozone Season Monitoring and Reporting (Amend); 335-3-18-.01/General-Permits Regulation (Amend) 335-3-21/Control of Mercury Emissions (Repeal)] of the Department's Air Division –

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

Air Pollution Control Program rules, administrative code attached hereto, to become effective thirty-five days after filing with the Alabama Legislative Reference Service.



ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION

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

IN WITNESS WHEREOF, we have affixed our signatures below on this 20th day of  
February 2009.

APPROVED:

*Laurel D. Gardner*  
*John D. Lesh*  
*Don Hewitt*  
*W. Scott Luning*

*Kenneth A. Hays*  
*Patricia Kuehn*

DISAPPROVED:

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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 20<sup>th</sup> day of February 2009.

Pa

*Laurel D. Gardner*  
Chair

Environmental Management Commission  
Certified this 20<sup>th</sup> day of February 2009.



**Attachment 5**



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

MOTION

Table Agenda Item 6 – Consideration of Proposed Addition to the  
Division 6 – Water Quality Regulations

ORDER

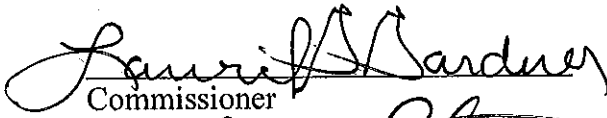
This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

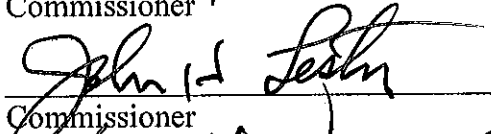
1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order  
Page 2

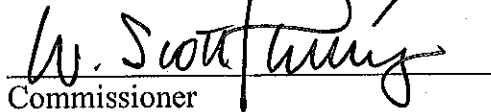
ISSUED this 20th day of February 2009.

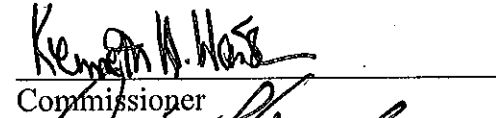
APPROVED:

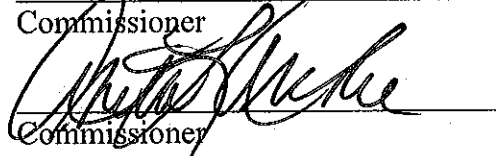
  
Commissioner

  
Commissioner

  
Commissioner

  
Commissioner

  
Commissioner

  
Commissioner

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Commissioner

DISAPPROVED:

\_\_\_\_\_  
Commissioner

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Commissioner

ABSTAINED:

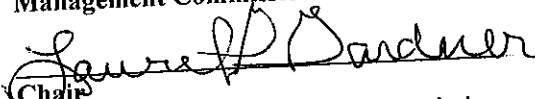
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Commissioner

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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 20<sup>th</sup> day of February 2009.

  
Chair  
Environmental Management Commission  
Certified this 20<sup>th</sup> day of February 2009.

**Attachment 6**





**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 – Hazardous 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 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 [335-14-01-.02/Definitions and References (Amend); 335-14-1-.03/Petitions for Equivalent Testing or Analytical Methods for Delisting (Amend); 335-14-2-.01/General (Amend); 335-14-2-.03/Characteristics of Hazardous Waste (Amend); 335-14-2-.04/Lists of Hazardous Waste (Amend); 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-.04/Recordkeeping and Reporting (Amend); 335-14-3-.09/Transfrontier Shipments of Hazardous Waste for Recovery with the Organization for Economic Cooperation and Development (Amend); 335-14-3-Appendix I/Uniform Hazardous Waste Manifest and Instructions (Amend); 335-14-4-.01/General (Amend); 335-14-4-.03/Hazardous Waste Discharges (Amend); 335-14-4-.04/Financial Requirements (Amend); 335-14-4-.05/Transfer Facility Requirements (Amend) 335-14-5-.03/Preparedness and Prevention (Amend); 335-14-5-.04/Contingency Plan and

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

Emergency Procedures (Amend); 335-14-5-.05/Manifest System, Recordkeeping and Reporting (Amend); 335-14-5-.08/Financial Requirements (Amend); 335-14-5-.10/Tank Systems (Amend); 335-14-5-.14/Landfills (Amend); 335-14-5-.15/Incinerators (Amend); 335-14-5-.19/Special Provisions for Cleanup (Amend); 335-14-6-.02/General Facility Standards (Amend); 335-14-6-.03/Preparedness and Prevention (Amend); 335-14-6-.04/Contingency Plan and Emergency Procedures (Amend); 335-14-6-.05/Manifest System, Recordkeeping and Reporting (Amend); 335-14-6-.06/Groundwater Monitoring (Amend); 335-14-6-.08/Financial Requirements (Amend); 335-14-6-.10/Tank Systems (Amend); 335-14-6-.14/Landfills (Amend); 335-14-7-.13/Military Munitions (Amend); 335-14-7-.14/Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation, and Disposal (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); 335-14-11-.03/Standards for Large Quantity Handlers of Universal Waste (Amend); 335-14-17-.05/Standards for Used Oil Transporters and Transfer Facilities (Amend); 335-14-17-.06/Standards for Used Oil Processors and Re-Refiners (Amend)] of the Department's Land Division – Hazardous Waste Program rules, administrative code attached hereto, to become effective thirty-five days after filing with the Alabama Legislative Reference Service.

ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION

ADEM Admin. Code division 335-14 – Hazardous Waste Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 20th day of  
February 2009.

APPROVED:

*Lawrence S. Gardner*  
*John H. Lester*  
*Sam Wright*  
*W. Scott Perry*

*Kenneth A. Harstow*  
*Patricia M. Miller*

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 20<sup>th</sup> day of February 2009.

*Lawrence S. Gardner*  
Chair

Environmental Management Commission  
Certified this 20<sup>th</sup> day of February 2009.



**Attachment 7**



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

|   |   |                                |
|---|---|--------------------------------|
| In the Matter of:                         | ) |                                |
|   | ) |                                |
| Utilities Board of the City of Andalusia, | ) |                                |
|   | ) | EMC Docket No. 08-06           |
| Petitioner,                               | ) | (ADEM Administrative Action:   |
|   | ) | Utilities Board of the City of |
| vs.                                       | ) | Andalusia, Andalusia Riverside |
|   | ) | Wastewater Treatment Facility, |
| Alabama Department of                     | ) | NPDES Permit AL0055417,        |
| Environmental Management,                 | ) | Covington County)              |
|   | ) |                                |
| Respondent.                               | ) |                                |

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ORDER

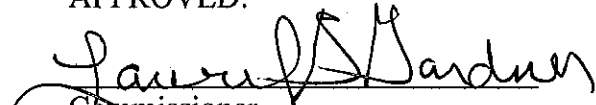
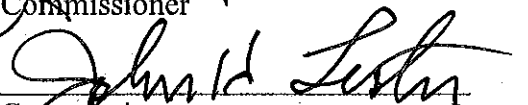

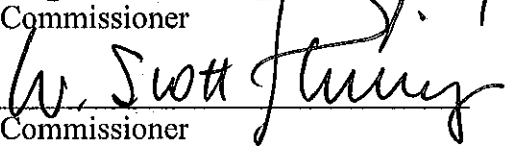
This cause having come before the Environmental Management Commission pursuant to a Joint Motion to Dismiss of the Utilities Board of Andalusia and the Alabama Department of Environmental Management in the above-styled appeal and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

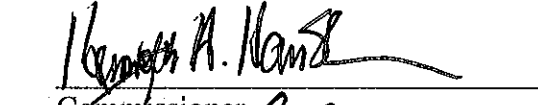
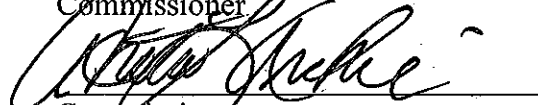
1. That the Joint Motion to Dismiss is hereby granted; and
2. That pursuant to the granting of the Joint Motion to Dismiss, this appeal is hereby dismissed; and
3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below; and
4. That a copy of this Order, along with a copy of the Joint Motion to Dismiss attached hereto as Exhibit A and made a part hereof, shall be forthwith served upon each of the parties hereto either personally, or by certified mail, return receipt requested.

Alabama Environmental Management Commission Order  
Page 2

ISSUED this 20<sup>th</sup> day of February 2009.

APPROVED:

  
Commissioner  
  
Commissioner  
  
Commissioner  
  
Commissioner

  
Commissioner  
  
Commissioner  
  
\_\_\_\_\_  
Commissioner

DISAPPROVED:

\_\_\_\_\_  
Commissioner

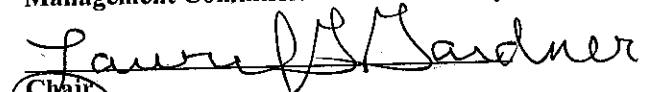
\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

ABSTAINED:

\_\_\_\_\_  
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 20<sup>th</sup> day of February 2009.

  
Chair  
Environmental Management Commission  
Certified this 20<sup>th</sup> day of February 2009.



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

UTILITIES BOARD OF THE CITY  
OF ANDALUSIA

Petitioners,

v.

THE ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT,

Respondent

EMC DOCKET NO. 08-06




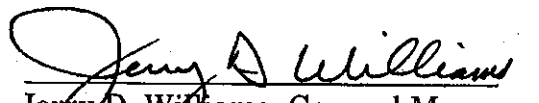
**JOINT MOTION TO DISMISS**  
**OF THE UTILITIES BOARD OF ANDALUSIA AND**  
**THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Comes now your Petitioner, the Utilities Board of the City of Andalusia ("Andalusia"), and comes now your Respondent, the Alabama Department of Environmental Management ("ADEM"), and jointly move the Commission to dismiss the above matter. For cause Andalusia and ADEM state as follows:

All matters relative to this matter have been resolved by Andalusia and ADEM.

Respectfully, submitted this 14<sup>th</sup> day of January, 2008.

  
James Wright  
Attorney for ADEM

  
Jerry D. Williams, General Manager  
Utilities Board of Andalusia

**CERTIFICATE OF SERVICE**

I, James L. Wright, hereby certify that I have served a copy of the foregoing "Joint Motion to Dismiss of the City of Andalusia and the Alabama Department of Environmental Management" by sending a copy of the same to each of the following in the below stated manner:

**U.S. MAIL AND TELEFAX**

Mr. Jerry D. Williams  
General Manager  
Utilities Board of the City of Andalusia  
P.O. Box 790  
Andalusia, AL 36420  
(334) 222-9058

**HAND DELIVERY**

Debi Thomas  
Alabama Environmental Management Commission  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059

DONE this 14<sup>th</sup> day of January, 2009

  
\_\_\_\_\_  
James L. Wright