

8/16/21

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
June 11, 2021**

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 June 11, 2021.

A handwritten signature in black ink, appearing to read 'S. L. Miller', is written over a horizontal line.

Samuel L. Miller, Chair

Alabama Environmental Management Commission

Certified this 13th day of August 2021.

Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
June 11, 2021

Convened: 10:59 a.m.
Adjourned: 11:41 a.m.

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Part A

**ALABAMA ENVIRONMENTAL MANAGEMENT
Commission Meeting on 06/11/2021**

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ALABAMA ENVIRONMENTAL MANAGEMENT
COMMISSION MEETING

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Alabama Room

1400 Coliseum Boulevard

Montgomery, Alabama 36110-2400

June 11, 2021

10:59 a.m.

25 Taken by: Victoria M. Castillo, ACCR No. 17

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1 A P P E A R A N C E S

2

3 COMMISSION MEMBERS PRESENT:

4 John (Jay) H. Masingill, III

5 Kevin McKinstry

6 Mary J. Merritt

7 Samuel L. Miller, M.D., Chair

8 Ruby L. Perry, D.V.M.

9 Thomas P. Walters, P.E., Vice Chair

10

11 COMMISSION MEMBER NOT PRESENT:

12 H. Lanier Brown, II, Esq.

13

14 ALSO PRESENT:

15 Robert Tambling, AEMC Legal Counsel

16 Debi Thomas, AEMC Executive Assistant

17 Lance R. LeFleur, ADEM Director

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1 (WHEREUPON, proceedings began at

2 10:59 a.m.)

3 DR. MILLER: I think it's time

4 to call the meeting to order. And we do have a

5 quorum here today.

6 Our first item is to consider the

7 minutes of the meeting held on April 9th, 2021.

8 Everybody has been furnished a copy of these to

9 review, and I will entertain a motion regarding

10 these minutes.

11 MS. MERRITT: So moved.

12 MR. MASINGILL: Second.

13 DR. MILLER: All right. We have

14 a motion to accept and second.

15 Any further discussion?

16 (No response.)

17 DR. MILLER: If not, I will call

18 for the question. All in favor of accepting the

19 minutes, raise your right hand.

20 (All Commissioners raise hand.)

21 DR. MILLER: Any opposed, same

22 sign.

23 (No response.)

24 DR. MILLER: Motion passes.

25 We'd like to call on Mr. LeFleur now

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1 for his report.

2 MR. LeFLEUR: Good morning,

3 Commissioners. Can you hear me all right? Is

4 this okay? Good. It's nice to be here without a

5 mask. You-all have been vaccinated, so you-all

6 won't need to have the social distancing issue

7 come up.

8 I want to say good morning and

9 welcome to others present for this fifth meeting

10 of the Alabama Environmental Management

11 Commission for fiscal year 2021. Today's report

12 will briefly cover our budget status and then

13 look at the state of the environment in Alabama.

14 We are nearly through with fiscal year 2021

15 and -- thank goodness -- and on target with our

16 funding and expenditures. The FY 2022 General

17 Fund budget was passed by the Legislature and

18 signed by the Governor. It includes our

19 requested \$4 million funding. On the federal

20 side, an FY 2022 budget has been enacted for EPA

21 that includes funding for the states. The FY

22 2022 funding level for all states is essentially

23 the same as it has been since the year 2010.

24 Now to the state of the environment

25 in Alabama. The process that seeks to improve

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1 environmental quality in Alabama and states

2 throughout the nation begins with putting in

3 place the necessary state laws, material

4 resources, and expertise to obtain delegation of

5 authority from EPA. That has been done. Air,

6 land, and water environmental quality standards

7 were developed along with discharge permits

8 reflecting those standards. That is an ongoing

9 activity. The final step in the process is

10 inspections to make sure there is compliance with

11 the permits and, if necessary, enforcement

12 actions to obtain compliance.

13 EPA-generated quantitative

14 compliance and enforcement metrics comparing all

15 states were reviewed in the April Commission

16 meeting. Using those measures, the Department

17 compared very favorably to the rest of the

18 nation. The question for today is: Are the

19 process and those favorable metrics actually

20 resulting in measurably better quality

21 environment in Alabama?

22 It has been two years since the last

23 report to the Commission on the State of the

24 Environment in Alabama. The state of the

25 environment takes the longer view and compares

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<p style="text-align: right;">Page 6</p> <p>1 the quality of the state's environmental 2 activities when reliable records were first 3 available 20 to 30 years ago, versus where they 4 are today, to see if Alabama's environment is 5 improving.</p> <p>6 The format of this report is a "then 7 versus now" comparison that will look at how the 8 public perceives our environment and what the 9 actual data shows.</p> <p>10 We start with public perceptions. 11 Beginning in 1998, every five years the Department 12 commissioned either Auburn University or the 13 University of Alabama to do a survey of public 14 opinion in Alabama to determine how well the 15 public understands matters related to the 16 environment. The public has both correct and 17 incorrect perceptions about the environment in 18 Alabama.</p> <p>19 Some of the correct perceptions are: 20 In 2018, the most recent year for the survey, 92 21 percent ranked the environment good versus 76 22 percent doing so in 1998. And it is the highest 23 percentage since the survey began 20 years ago. 24 49 percent ranked water cleaner than 25 years ago 25 versus 19 percent in 1998. And it is also the</p>	<p style="text-align: right;">Page 8</p> <p>1 to the contrary, 44 percent do not perceive 2 environmental laws are being enforced in Alabama. 3 The Department has made special 4 efforts in recent years to better inform the 5 public on the state of the environment in 6 Alabama. We report various relevant objective 7 environmental quality measures in addition to the 8 quantitative compliance and enforcement metrics 9 such as were presented at the last Commission 10 meeting.</p> <p>11 The following series of slides will 12 be a comparison of the environmental quality data 13 for air, water, and land showing environmental 14 measures when reliable data first became 15 available and those same measures today. Unlike 16 the quantitative performance metrics available 17 from EPA, comparable environmental quality data 18 from other states is not available.</p> <p>19 Beginning with air data, there are 20 six basic air quality standards: Fine particles, 21 ozone, oxides of nitrogen, Sulphur dioxide, 22 Carbon monoxide, and Lead. There's also a 23 regional haze goal.</p> <p>24 Over time, most of the standards 25 have been revised, as this next slide will show.</p>
<p style="text-align: right;">Page 7</p> <p>1 highest percentage since the survey began. Keep 2 in mind that since water has been getting 3 cleaner, the baseline from which the 25 years ago 4 comparison is made is higher as time passes.</p> <p>5 43 percent ranked air cleaner than 6 25 years ago versus 18 percent doing so in 1998. 7 Again, the highest percentage since the survey 8 began. Once again, since the air has been 9 getting cleaner, the baseline from which the 10 comparison is made is higher as time passes.</p> <p>11 And, finally, 90 percent of the 12 respondents recognize that Alabama's 13 environmental standards are protective of human 14 health and the environment. This is up from just 15 76 percent in the last survey in 2013.</p> <p>16 These correct perceptions show we 17 are making headway in educating the public.</p> <p>18 The survey also shows several 19 incorrect perceptions, which means we still have 20 work to do in educating the public. In 2018, 73 21 percent did not realize motor vehicles are the 22 biggest source of air pollution in Alabama and 23 the nation. 89 percent of the public did not realize 24 that stormwater is the biggest source of water 25 pollution. And despite ample objective evidence</p>	<p style="text-align: right;">Page 9</p> <p>1 Each time they have been revised they become more 2 stringent. Fine particles and ozone standards 3 have seen four revisions since the Clean Air Act 4 became law in 1971, while others have been more 5 stable. In 2008, EPA set the 2018 goal for total 6 reductions in haze.</p> <p>7 As this next slide shows, one by one 8 Alabama has been able to attain individual air 9 quality standards even as the standards have been 10 becoming tighter. The fine particles standard 11 was first met in Alabama in 2013, followed by 12 ozone in 2014. The NOx standard was first met in 13 back in 1971, SO2 in 1977, Carbon monoxide in 14 1971, and Lead in 2015. In 2015, for the first 15 time since the Clean Air Act was enacted in 1971, 16 the state of Alabama reached attainment for all 17 air quality standards. In addition, Alabama met 18 the 2018 haze goal in 2013, five years early.</p> <p>19 This graphs shows air pollution 20 emissions in Alabama have declined materially 21 since 1990 and improvement continues even after 22 those ever more stringent air quality standards 23 were attained. Today the public in Alabama can 24 breathe easier than it could in 1990.</p> <p>25 In the water media, we will look at</p>

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<p style="text-align: right;">Page 10</p> <p>1 drinking water data first because of its 2 importance in that it directly impacts every 3 individual in Alabama. Potential contaminants in 4 drinking water fall into four categories: 5 Organic chemicals, Inorganic chemicals, 6 Radionuclides, and Microbes. In 1982, when the 7 Department was created, there were 23 drinking 8 water contaminants regulated. That number is 9 currently 89, with most of the increase being 10 in the organic chemicals category. 11 We are obviously regulating more 12 potential contaminants in drinking water. With 13 more contaminants to monitor, the logical 14 question is: How well are the water systems 15 doing? 16 Here's the answer. In 1982, 82 17 percent of the water systems in Alabama were 18 consistently in compliance with the standards for 19 the 23 regulated contaminants. Today, 98 percent 20 of the water systems in Alabama are consistently 21 in compliance with the standards for the 89 22 contaminants now regulated. I would also point 23 out that, for years, only the state of Hawaii has 24 had a lower number of drinking water violations 25 than Alabama. Needless to say, the citizens of</p>	<p style="text-align: right;">Page 12</p> <p>1 2020, more than 12,000 combination miles of 2 impaired rivers and streams were identified and 3 added to the 303(d) list. In 2020, there remained 4 about 4,000 combination miles of impaired rivers 5 and streams as a result of 8,700 combined miles 6 being removed from the list due to improved water 7 quality or being addressed through the 8 development of a total maximum daily load, or 9 TMDL, determination. A TMDL sets strict limits 10 for the discharge of pollutants into the assessed 11 waterbody that will bring that body into 12 compliance with water quality standards. 13 During the period 1998 through 2020, 14 more than 1.1 million combination acres of 15 impaired lakes, reservoirs, ocean, and estuaries 16 were added to the 303(d) list when identified. 17 In 2020, there remained about 660,000 18 combination acres of impaired lakes, reservoirs, 19 ocean, and estuaries as a result of more than 20 400,000 combination acres being removed from the 21 list due to improved water quality or being 22 addressed through TMDL development. 23 Impaired waterbodies have seen 24 significant improvement over the years and that 25 improvement continues.</p>
<p style="text-align: right;">Page 11</p> <p>1 Alabama have much safer drinking water now than 2 they did in 1982. 3 Another measure of water quality 4 looks at the impairments to surface waters in the 5 state. Section 303(d) of the Clean Water Act 6 calls for a listing of impaired waterbodies, 7 which are those not meeting federally approved 8 water quality standards for various pollutants such 9 as nutrients, pathogens, metals, and suspended solids. 10 This chart couples both the area of 11 the impairments and the number of pollutants. 12 For example, if one mile of stream or one acre of 13 surface water is impaired for both nutrients and 14 pathogens, that would be counted as two 15 combination miles of impaired stream or two 16 combination acres of surface water. 17 25 percent of the 59,000 miles of 18 perennial rivers and streams and 93 percent of 19 the more than one million acres of lakes, 20 reservoirs, ocean, and estuaries in the state 21 have now been fully assessed for impairment. 22 Over the years, as more waterbodies have been 23 assessed, more impairments have been identified 24 and listed. 25 During the period between 1998 and</p>	<p style="text-align: right;">Page 13</p> <p>1 The 303(d) list identifies impaired 2 waterbodies. Waterbodies are also tracked by an 3 assigned designation or use classification. The 4 data in this slide will go back to 1982, which is 5 a bit further back than the previous slide. 6 Looking at the three highest 7 designations -- Outstanding National Resource 8 Waters, Outstanding Alabama Waters, and Treasured 9 Alabama Lakes -- as you can see, in 1982 no state 10 waters were yet determined to have met the 11 requirements to be designated in the highest 12 categories. 13 By 2020, Alabama was recognized to 14 have more than 1,100 miles and nearly 5,600 acres 15 in the two combined designations of natural 16 waters of outstanding quality that are considered 17 important to Alabama and the nation. 18 Alabama also had more than 40,000 19 acres of exceptionally high quality waters 20 resulting from the manmade impoundment of 21 watercourses into reservoirs with the Treasured 22 Alabama Lakes designation. 23 Conversely, at the other end of the 24 scale, the number of miles of watercourses in the 25 lowest use classification, which is below the</p>

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<p>1 Fish and Wildlife classification and suitable 2 only for industrial and agricultural use, has 3 declined from more than 700 miles to just over 4 100 miles.</p> <p>5 Since 1982, Alabama has seen a 6 dramatic increase in the waters qualifying for 7 the highest quality designations and use 8 classifications and, likewise, a dramatic 9 decrease in those falling into the lowest use 10 classifications.</p> <p>11 As measured by drinking water 12 quality, impaired water bodies, and waterbody 13 designations and use classifications, water 14 quality in Alabama has improved significantly 15 over the years.</p> <p>16 Moving on to the data from the land 17 media, we begin by looking at an area that has 18 had heightened level of public interest in the 19 last few years, landfills. Landfills are a 20 necessary feature if we are to dispose of the 21 solid waste generated by each of us in a safe, 22 efficient, and effective manner.</p> <p>23 In 1989, Alabama had 141 unlined 24 solid waste landfills. All of those have been 25 closed, and today there are 32 state-of-the-art</p>	<p>1 in 1989 and it has now surpassed the 25 percent 2 recycling goal set back in 1991 and compares 3 favorably with national averages. The total now 4 comes to 2.5 million tons per year. That is a 5 noteworthy accomplishment.</p> <p>6 Scrap tires present special problems 7 as fire hazards and breeding grounds for vectors. 8 Since 2006, more than 350 illegal scrap tire 9 dumps containing 11 million tires have been 10 cleaned up.</p> <p>11 Today, solid waste in Alabama's 12 environment is being dealt with far more 13 responsibly.</p> <p>14 In the past, underground storage 15 tanks, typically found at gas stations, have been 16 subject to leaks due to corrosion or physical 17 damage. Leaking petroleum products contaminate 18 both soil and groundwater. New regulations and 19 technology now prevent or provide for early 20 detection of leaks from tanks installed in recent 21 years. But many legacy sites exist in Alabama 22 and throughout the nation.</p> <p>23 Since 1989, more than 12,000 leak 24 sites have been identified in Alabama. More than 25 11,000, or 92 percent, have been cleaned up with</p>
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<p>1 lined, MSW-permitted landfills handling all the 2 municipal solid waste in Alabama.</p> <p>3 Alabama, like other states, has had 4 to deal with not only permitted landfills but 5 also with unauthorized solid waste dumps.</p> <p>6 Since 2009, more than 2,000 7 unauthorized solid waste dumps have been 8 remediated. More than 1,450 of those have been 9 remediated by actions against the responsible 10 parties, while more than 550, representing 11 innocent landowners, have been cleaned up using 12 funds provided by the dollar-per-ton fee on solid 13 waste disposed of in landfills, which was 14 initiated in 2009.</p> <p>15 Each of these categories continues 16 to show steady improvement over the two years 17 since we last reviewed them.</p> <p>18 In addition to safely disposing of 19 solid waste, efforts have been expanding to 20 reduce the total amount of solid waste in Alabama 21 by promoting recycling. Once again, significant 22 progress has been made during the last two years 23 just as it has been in prior years.</p> <p>24 The solid waste reduction rate in 25 Alabama today is more than five times what it was</p>	<p>1 the remaining 900 in some stage of the clean-up 2 process.</p> <p>3 There is much less contaminated soil 4 and groundwater in Alabama now than there was in 5 1989.</p> <p>6 This final state of the environment 7 slide shows what has been happening with other 8 contaminated legacy sites known as brownfields. 9 These most often are old industrial sites. As 10 with underground storage tanks, new regulatory 11 programs and technology have all but halted the 12 creation of new brownfield sites.</p> <p>13 The brownfield program has 14 identified 648 legacy brownfield sites in 15 Alabama. Since 2001, 430, or two-thirds, of 16 these sites, totaling 6,000 acres, have been 17 returned to productive use and 84 of the 18 remaining sites, totaling more than 7,000 acres, 19 are actively enrolled in the brownfields program.</p> <p>20 The land returned to productive use 21 is very often in prime areas for future 22 industrial development. Both the environment and 23 economic prospects in Alabama have been improved 24 since 2001 because of this program.</p> <p>25 As reports to you during the last</p>

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1 few years have set out, the Department, like most
2 states, has taken significant steps to address
3 environmental quality issues related to Coal
4 Combustion Residuals, CCR, often referred to as
5 coal ash, and Per- and Polyfluoroalkyl
6 substances, PFAS.

7 With coal ash, in 2018 the
8 Department and the Commission undertook initial
9 CCR rulemaking. The rules were updated in 2020.
10 In 2018, the Department took significant
11 enforcement actions for groundwater contamination
12 from coal ash impoundments. We are in the midst
13 of a permitting program to issue permits for the
14 closure of CCR impoundments and for the
15 remediation of contaminated groundwater.

16 Concern for the long-lived, widely
17 used compounds known as PFAS has been increasing
18 in recent years. This has led the Department to
19 have every public drinking water system in
20 Alabama test for the presence of a panel of PFAS.
21 Three out of the 579 drinking water systems in
22 Alabama tested positive for PFAS at or above the
23 lifetime consumption health advisory level and,
24 in addition to the Department, have taken several
25 actions to control PFAS.

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1 We are still in the early stages of
2 the CCR and PFAS programs, so trends have not yet
3 been established, but we will be monitoring,
4 analyzing, and reporting those trends as they
5 emerge.

6 The quality of Alabama's
7 environment -- as measured by air emissions,
8 meeting or beating water quality standards, and
9 remediated legacy soil contamination -- has been
10 improving continuously over the years and it has
11 continued that improvement in the two years since
12 we last reviewed the data. Hard data shows the
13 progress.

14 The progress is evidence of the
15 cooperative efforts of federal and state
16 regulatory agencies, as well as industry, the
17 environmental community, and involved citizens.
18 That is not to say there was always agreement
19 among all the players about important issues.
20 Quite the contrary, opposing points of view often
21 occurred but often that led to better results.
22 Results are what we all look for.

23 This report is to look back at some
24 highlights of achievement and is a commitment to
25 continue the work.

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1 The state of the environment in
2 Alabama is much improved over what it was 20 to
3 30 years ago. Our citizens breathe much cleaner
4 air, have higher quality water, and can be
5 assured that solid waste management and
6 contaminated land remediation have significantly
7 progressed. The current state of the environment
8 in Alabama is very good and all trends are
9 favorable.

10 Now, I'd like to change the topic
11 just briefly. We have as one of our main
12 objectives to develop our employees. Our
13 personnel are our greatest asset. And I often
14 take the occasion to recognize those who have
15 achieved the development that we are seeking to
16 have them engage in.

17 Today I would like to recognize
18 Justin Rigdon.

19 Would you -- are you in here?
20 There he is. Please stand. Justin
21 just earned his PE designation six days ago. So
22 he is a brand-new PE. And I want to congratulate
23 him and thank him very much for his work.

24 (Audience applause.)
25 MR. LeFLEUR: And as I say to

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1 our new PEs, you do get a raise.

2 Okay. With that, that completes my
3 report for today. I will be happy to answer any
4 questions you have.

5 DR. MILLER: I have one
6 question, Mr. Director. Do we have any sort of
7 program or -- to me it seems like we have a lot
8 of people who are throwing away computers in the
9 garbage can and lithium ion batteries and old TVs
10 and stuff like that. Does the Department have
11 any programs to combat that --

12 MR. LeFLEUR: Recycle
13 electronics?

14 DR. MILLER: Yes.

15 MR. LeFLEUR: We don't have a
16 specific program for electronics that we
17 administer. However, we work with landfills and
18 various communities about recycling in general.
19 And part of the recycling is the recycling of
20 electronics. So we work with the local
21 communities, as opposed to having a statewide
22 program. We give out about -- I think it's about
23 \$2 million per year in recycling grants to
24 municipalities for a number of different
25 recycling activities.

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<p>1 DR. MILLER: Okay. Thank you. 2 Any more questions? 3 MS. PERRY: I have a question on 4 the scrap tire recycling. Even though it looks 5 like you're making some headway with it, are we 6 really making headway with it with 11 million 7 tires that we reported in 2006? And where do 8 those tires go in the recycling process? 9 MR. LeFLEUR: Well, we have been 10 working for many years on a recycling program for 11 scrap tires. The bulk of the scrap tires that 12 are collected and eventually -- we pick them up 13 from things like pastureland or alongside of the 14 road. These are places where they're not 15 controlled. They can go a number of different 16 places. 17 But the biggest reuse of the scrap 18 tires currently is in the fuel sector. 19 Typically, for cement kilns. They have the air 20 pollution control equipment to be able to burn 21 those tires and still meet environmental 22 requirements. But, primarily, it's fuel. 23 We're working on other types of 24 recycling. In fact, we have a ribbon-cutting 25 coming up in the next week or two with the</p>	<p>(No response.) 2 DR. MILLER: Thank you, 3 Mr. Director. 4 MR. LeFLEUR: Thank you. 5 DR. MILLER: Our next item on 6 the agenda is a report from the Commission chair. 7 And I would like to report that this 8 week I was driving down I-85 toward town and I 9 noticed a nice, large, very readable sign that 10 says "You are now entering the Alabama River 11 watershed." And it encouraged people not to 12 litter and not to, you know, soil the watershed. 13 But it was a very nice and very readable sign, 14 and I think it's just been put up because I just 15 noticed it this week. 16 MR. LeFLEUR: Mr. Chairman, I 17 can mention that that is an ADEM program to try 18 to help address litter in the state. We're 19 having 48 signs put up in the interstates around 20 Alabama. Right now the Department of 21 Transportation spends between \$6- and \$7 million 22 a year just for litter in their rights of 23 way. That doesn't include local roads and so 24 forth. But we're working on that program. 25 Thank you for recognizing it.</p>
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<p>1 Department of Conservation and Natural Resources. 2 They are repaving some of the roads in the state 3 parks, two state parks, using rubber-modified 4 asphalt, where crumb rubber is mixed with asphalt 5 and it gives it qualities that are very 6 helpful -- skid resistance, that sort of thing. 7 And we have a number of other 8 demonstration projects going on. The walking 9 track out here between this building and the lab 10 is from recycled scrap tires. We're also using 11 recycled scrap tires, scrap -- rubber-modified 12 asphalt in the paved area for our new Mobile 13 field office. That's been one of the design 14 characteristics that we have requested. Also, 15 using it for curbing and a walking track at the 16 -- in the new Mobile field office. 17 We want to expand the recycling 18 scrap tires. Right now fuel is the most widely 19 used form of recycled tires, but we're trying to 20 work on other ones, also. 21 Thank you. Thank you for that 22 question. I hope I answered it. 23 MS. PERRY: Thank you. 24 DR. MILLER: Any further 25 questions?</p>	<p>1 DR. MILLER: Well, I knew it was 2 from ADEM. But perhaps we should ask the ALDOT 3 people to put a little disclaimer at the bottom 4 that this is supplied by your ADEM. Anyway. 5 Also, it's time again to evaluate 6 Director LeFleur, and we're going to ask the 7 Personnel Committee to start a job performance 8 evaluation covering the period of October 10th, 9 2020, which was the day after our last report, 10 through the next meeting, which is August, I 11 guess -- that's not right. No. It will be in 12 October again. Anyway, we need to get started on 13 that. And we're going to invite members of the 14 Commission and members of the public to submit 15 their thoughts on Director LeFleur's performance. 16 We will circulate those among the 17 Committee members, our Commission members, and 18 the Personnel Committee will take those up and 19 then we will vote on them at the Commission in 20 October. 21 The deadline -- Debi, when would the 22 deadline be? July 31st? Is that right? 23 MS. THOMAS: Yes, it would be 24 end of July. Yes, sir. 25 DR. MILLER: The end of July</p>

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<p>1 would be the deadline for submitting your 2 evaluation, and we look forward to hearing from 3 everyone.</p> <p>4 Agenda item 4 is the Sierra Club 5 versus ADEM and Alabama Power Company, EMC Docket 6 No. 21-02.</p> <p>7 The Commission will consider the 8 Hearing Officer's Recommendation of Dismissal. 9 The Hearing Officer recommends that the 10 Commission dismiss this appeal, with prejudice. 11 And I think that the Sierra Club and ADEM and 12 everyone is in agreement that this should be 13 dismissed.</p> <p>14 So we have been furnished the 15 details of this for our evaluation prior to the 16 meeting. And I would entertain a motion from the 17 Commission regarding the Hearing Officer's 18 Recommendation of Dismissal.</p> <p>19 MR. WALTERS: I move to adopt 20 the Hearing Officer's Recommendation for 21 Dismissal.</p> <p>22 DR. MILLER: Is there a second? 23 MR. MASINGILL: Second. 24 MS. PERRY: I second. 25 DR. MILLER: There has been a</p>	<p>1 item would be to open the floor for statements by 2 members of the public who have registered to 3 speak. And we have one request today from James 4 Endsley regarding a proposed regulation.</p> <p>5 Mr. Endsley.</p> <p>6 MR. ENDSLEY: Thank you. I know 7 it's three minutes, but I ain't even going to 8 take that long. Are we ready?</p> <p>9 DR. MILLER: I think so.</p> <p>10 MR. ENDSLEY: All right. Well, 11 good morning, Commissioners, Director LeFleur. I 12 prepared a 20-minute speech that I got down to 13 two minutes and 50 seconds after about 20 14 revisions, and I'm not even going to read it.</p> <p>15 The reason why is I've actually got two 16 detailed proposals that I'm going to submit to 17 the Chairman and Director LeFleur for later, so 18 what's the point in going through the whole thing 19 now?</p> <p>20 The point is you made a mention 21 about air quality, and air quality has gotten 22 better. I love the things that you-all are 23 doing, but the one thing that he did mention was 24 more stringent regulations. And those stringent 25 regulations are affecting homeowners.</p>
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<p>1 motion and a second.</p> <p>2 Any further discussion? 3 (No response.)</p> <p>4 DR. MILLER: If not, let's call 5 for the question. All in favor of dismissal, 6 raise your right hand.</p> <p>7 (All Commissioners raise hand.)</p> <p>8 DR. MILLER: All opposed, same 9 sign.</p> <p>10 (No response.)</p> <p>11 DR. MILLER: Motion carries. 12 Seems strange that we're all up here 13 in a row today versus having a two-level 14 approach.</p> <p>15 All right. Is there any other 16 business that we need to consider today on our 17 agenda?</p> <p>18 (No response.)</p> <p>19 DR. MILLER: If not, let it be 20 noted for the record our next meeting is August 21 13th, 2021.</p> <p>22 Does anyone know of a conflict at 23 this point with that date? 24 (No response.)</p> <p>25 DR. MILLER: If not, our next</p>	<p>1 So for me, for example, I'm trying 2 to build a new home, and those regulations are 3 costing me an additional \$12,000 because I can't 4 clear my trees and burn them on my property 5 because of a neighbor that has filed a complaint 6 against me.</p> <p>7 So this proposal has an amendment to 8 that regulation that says maybe we can do 9 something about that 500-foot regulation. Maybe 10 we can drop it down to 200 feet for certain types 11 to burn or maybe 100 feet that's just a leaf 12 burner. What I got reported for was burning a 13 small pile of leaves on my property and that was 14 it.</p> <p>15 So now I've gotten threatened with a 16 \$25,000 fine if I ever burn anything on my 17 property ever again. So I own three acres of 18 land. There is no reason why I shouldn't be able 19 to burn a small pile of leaves on three acres of 20 land.</p> <p>21 So 500 feet is a long way. I don't 22 know if you have ever stepped it, but it's a long 23 way. And to me it just seems, you know, a little 24 ridiculous that we can't do that.</p> <p>25 Like I said, I get it. I know why</p>

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<p>1 it's there, you know, particulates in the air. I 2 get all that, all the things. Can we at least 3 look at the length of it and see if we can't 4 amend it to allow for certain things? 5 Or even this, allow for certain burn 6 permits during winter months. I know the summer 7 months we have to worry about because of the 8 ozone levels, you know, warm air and all that 9 good stuff. I understand that. But even during 10 the winter months in rural areas or suburban 11 areas that don't have high pollution, you know, 12 maybe we can look at those things and see if we 13 can allow it at different times throughout the 14 year, just different areas. 15 And, bottom line, even if we change 16 it, you-all have the ability to put a burn ban 17 anywhere you want, right? I mean, you put a burn 18 ban on 12 counties every year from May to August 19 or October, something like that. Is that right? 20 I know you-all did last year. I don't know if 21 you're still doing it this year. But, I mean, 22 you-all have that ability to do that. So even if 23 things start getting out of hand, you can always 24 shut it right back down. So all I'm saying is at 25 least open it up and see what happens.</p>	<p>1 miles east of Birmingham. And it's a nice area. 2 MR. MCKINSTRY: I've got a 3 question maybe for the Director on that. But 4 with the popularity of outdoor fireplaces and 5 fire pits now, how does that -- do they fall 6 under the same regulation or -- 7 MR. LeFLEUR: Well, this is an 8 open burning requirement, and I have to defer to 9 our Air Division folks for the expertise on when 10 an outdoor fireplace becomes an open burning. 11 MR. ENDSLEY: I actually have an 12 answer for this, because I already got it. 13 Recreational, so fire pits and 14 fireplaces outdoor are allowed. But what I have 15 been told is within reason. So, you know, I have 16 been told that open burning is a privilege, and it 17 is. And all I want to do is extend it to more 18 people. But, yes, you can have fire pits and 19 campfires. You just can't have burning leaves 20 for some unknown reason. I don't know what the 21 difference is between campfire and burning 22 leaves, but that's another story, per his Air 23 Quality people. 24 DR. MILLER: Any more questions 25 for Mr. Endsley?</p>
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<p>1 In the past month I have drove by 2 nine different homes that have fires burning in 3 their yard. And I guarantee you not a single one 4 of them probably even know that there's a 500-foot 5 rule. Probably not a single one of them. I 6 never even heard of it. I think the only people 7 that do know it are the ones like me who got hit 8 with a fine or a citation or the people like 9 you-all who are actually in that industry and 10 know that. 11 So, again, I like air quality. I 12 don't want to mess it up. All I'm saying is let's 13 just look at it and see if this is really going 14 to make an impact. That's all I got. And, like 15 I said, I will drop these off for you-all later. 16 DR. MILLER: Thank you. 17 MR. ENDSLEY: Thank you-all for 18 you-all's time. 19 DR. MILLER: Thank you. 20 MR. MCKINSTRY: Where is your 21 homesite? 22 MR. ENDSLEY: Moody, Alabama. 23 MR. MASINGILL: Is that in 24 Jefferson County? 25 MR. ENDSLEY: We're about 30</p>	<p>1 (No response.) 2 DR. MILLER: Thank you for 3 coming today. 4 MR. ENDSLEY: Thank you for your 5 time. Thank you. 6 DR. MILLER: Okay. I think that 7 was -- that sort of ends up where we need to get 8 to today. 9 I will entertain a motion to 10 adjourn. 11 MS. PERRY: I move to adjourn. 12 MR. MASINGILL: Second. 13 DR. MILLER: All in favor, say 14 aye. 15 16 (All Commissioners say "aye.") 17 DR. MILLER: We're adjourned. 18 Thank you. 19 (Proceedings concluded at 20 11:41 a.m.) 21 ***** 22 23 24 25</p>

1 STATE OF ALABAMA)

2 COUNTY OF ELMORE)

3

4

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ALABAMA ENVIRONMENTAL MANAGEMENT

Commission Meeting on 06/11/2021

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**ALABAMA ENVIRONMENTAL MANAGEMENT
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ALABAMA ENVIRONMENTAL MANAGEMENT

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Part B

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Attachment 1 Agenda

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

**Attachment 3 Order adopting Hearing Officer's Recommendation of Dismissal
(Agenda Item 4)**

Attachment 1

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: June 11, 2021

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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4. <u>Sierra Club v. ADEM, and Alabama Power Company</u> EMC Docket No. 21-02 (NPDES-Related Matter)	2
5. Other business	2
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PUBLIC COMMENT PERIOD	2
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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

AEMC Meeting Agenda

Page 2

1. CONSIDERATION OF MINUTES OF MEETING HELD ON APRIL 9, 2021
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. SIERRA CLUB V. ADEM, AND ALABAMA POWER COMPANY, EMC DOCKET NO. 21-02 (NPDES-RELATED MATTER)

The Commission will consider the Hearing Officer's *Recommendation of Dismissal*. The Hearing Officer recommends dismissal of this appeal with prejudice. The Hearing Officer's Recommendation is based on his consideration of the parties' *Stipulation for Dismissal*, in which the parties agreed to stipulate to dismissal of this appeal with prejudice, pursuant to Ala. Admin. Code r. 335-2-1-.21(2), and each party agreed to bear its own fees and costs. The subject of this appeal is ADEM's reissuance of NPDES Permit No. AL0002879 to Alabama Power Company, Barry Steam Electric Plant, Bucks, Alabama, on December 9, 2020.

5. OTHER BUSINESS
6. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

Members of the public that wish to make a brief statement at a Commission meeting may do so by first signing in on a register maintained by the Commission office prior to each regularly scheduled meeting. The register will close ten minutes prior to convening each meeting of the Commission. Following completion of all agenda items, the Commission Chair will call on members of the public wishing to make a statement in the order their names appear on the register. Speakers are encouraged to limit their statement to matters that directly relate to the Commission's functions. Speakers will be asked to observe a three minute time limit. While an effort will be made to hear all members of the public signed on the register, the Commission may place reasonable limitations on the number of speakers to be heard. (Guideline 11, Guidelines for Public Comment).

The Guidelines for Public Comment are used in the application of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda and Public Participation. The Guidelines for Public Comment serve to educate and inform the public as to how the Commission interprets and intends to apply the Rule. The revised Rule 335-2-3-.05 was effective October 7, 2016.

Attachment 2



Alabama Department Of Environmental Management

Report on State of the Environment in Alabama to Alabama Environmental Management Commission

June 11, 2021

adem.alabama.gov



Alabama Department Of Environmental Management

The Environment: Then verses Now

- What does the Alabama public think?
- What does the data show?



Alabama Department Of Environmental Management

Survey of Public Opinion

- Every 5 years 1998 – 2018 [5 times]
- Correct perceptions:
 - 92% rank environment good vs. 76% in 1998
 - 49% rank water cleaner than 25 yrs ago vs. 19% in 1998
 - 43% rank air cleaner than 25 yrs ago vs. 18% in 1998
 - 90% agree standards are protective of human health and the environment



Alabama Department Of Environmental Management

Survey of Public Opinion

- Incorrect perceptions:
 - 73% do not realize motor vehicles biggest source of air pollution in Alabama and Nation
 - 89% do not realize storm water biggest source of water pollution
 - 44% do not perceive environmental laws are being enforced in Alabama



Alabama Department Of
Environmental Management

AIR DATA



Alabama Department Of
Environmental Management

Air Quality and related standards

- PM2.5
- Ozone
- NO_x
- SO₂
- CO
- Pb
- Haze



**Alabama Department Of
Environmental Management**

**Revisions to Air Quality
Standards and Goals**

- PM2.5 – 1971; 1987; 1997; 2006; 2012
- Ozone – 1971; 1979; 1997; 2008; 2015
- NO_x – 1971; 2010
- SO₂ – 1971; 2010
- CO – 1971
- Pb – 1978; 2008
- Haze – goal for 2018 set in 2008



**Alabama Department Of
Environmental Management**

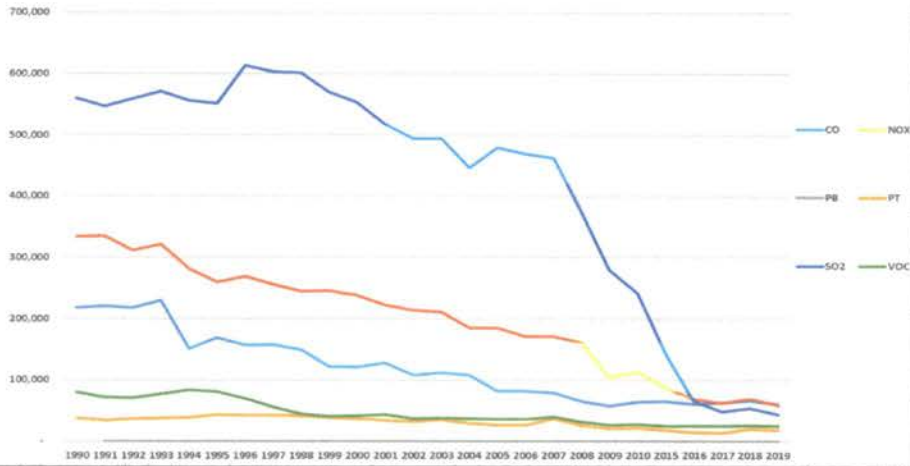
**Statewide Attainment of Air Quality and
related standards**

- PM2.5 – 2013
- Ozone – 2014
- NO_x – 1971
- SO₂ – 1977
- CO – 1971
- Pb – 2015
- Haze – 2013



Alabama Department Of Environmental Management

AL Emissions from Major Sources (tons) 1990-2019



Alabama Department Of Environmental Management

WATER DATA



Alabama Department Of Environmental Management

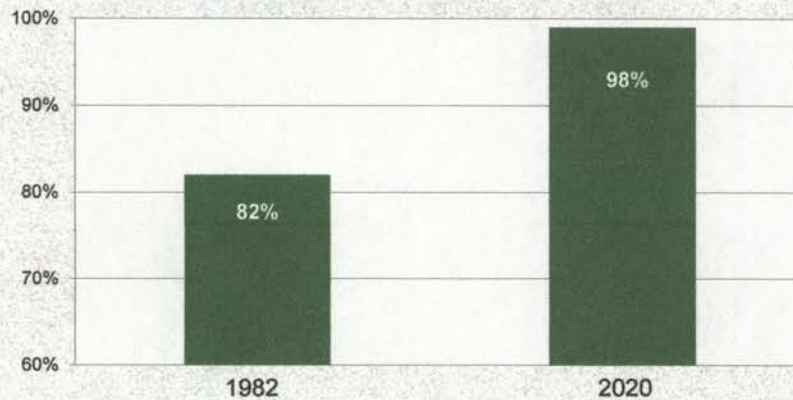
Number of Drinking Water Contaminants Regulated

	<u>1982</u>	<u>2020</u>
• Organic chemicals	7	55
• Inorganic chemicals	10	19
• Radionuclides	3	7
• Microbes	3	8
Total	<u>23</u>	<u>89</u>



Alabama Department Of Environmental Management

Percentage of Public Water Systems in Compliance





Alabama Department Of Environmental Management

303(d) Impaired water body / pollutant combinations 1998-2020

	<u>Listed</u>	<u>Ending</u>
River/Stream (miles)	12,765	4,057
Lake/Reservoir (1000s ac)	546	199
Ocean/Estuary (1000s ac)	563	463



Alabama Department Of Environmental Management

Water Designations & Classifications

	<u>1982</u>	<u>2020</u>
• Highest Quality Waters:		
– Outstanding National Resource Waters		
> miles	0	805
> acres	0	1,946
– Outstanding Alabama Waters		
> miles	0	343
> acres	0	3,651
– Treasured Alabama Lakes		
> acres	0	40,065
• Lowest Use Classifications:		
– Lower than Fish & Wildlife		
> miles	713	138



Alabama Department Of
Environmental Management

LAND DATA



Alabama Department Of
Environmental Management

Landfills

- Improved landfills 1989 - 2020:
 - 141 unlined MSW landfills closed
 - 32 state-of-the-art lined MSW landfill permits today



Alabama Department Of Environmental Management

Unauthorized solid waste dumps (UAD)

- 2,017 UADs remediated 2009 – 2020
 - 1,454 UADs remediated by responsible parties
 - 563 UADs innocent landowners held harmless



Alabama Department Of Environmental Management

Solid waste & Scrap tire recycling

- Solid waste reduction since 1989
 - rate increased from 5% to >25%
 - rate increased from .2 million TPY to 2.5 million TPY
- Scrap tire cleanup since 2006
 - 356 illegal scrap tire dumps cleaned up
 - 11 million passenger tires cleaned up



Alabama Department Of Environmental Management

Underground Storage Tanks (UST)

Since 1989:

- 12,235 UST leak sites identified
 - 11,333 UST sites cleaned up
 - 902 UST sites currently being cleaned up



Alabama Department Of Environmental Management

Brownfields (BF)

- 648 BF sites identified 2001 – 2020
 - 430 BF sites returned to productive use
 - 6,002 acres returned to productive use
 - 84 BF sites currently actively enrolled
 - 7,759 acres currently actively enrolled

Coal Ash & PFAS

- Coal Ash:
 - Rulemaking,
 - Enforcement
 - Closure & remediation
- Per and Polyfluoroalkyl Substances;
 - Testing
 - Controls

Attachment 3

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

SIERRA CLUB,)	
)	
Petitioner,)	
)	
v.)	
)	
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,)	EMC DOCKET No. 21-02
)	NPDES PERMIT No. AL0002879
Respondent)	
)	
and)	
)	
ALABAMA POWER COMPANY,)	
)	
Intervenor-Respondent.)	

ORDER OF DISMISSAL

Before the Environmental Management Commission (the Commission) in the above appeal is the Hearing Officer’s Recommendation of Dismissal dated May 21, 2021. Based upon the record in the proceeding, including the Parties’ Stipulation for Dismissal, the Commission hereby **ORDERS, ADJUDGE and DECREES** as follows:

1. That the Hearing Officer’s Recommendation of Dismissal is hereby adopted;

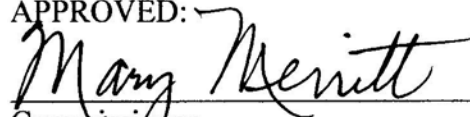
2. That pursuant to the adoption of the Hearing Officer’s Recommendation of Dismissal, the Commission orders that the above appeal is dismissed with prejudice, with each party bearing its own fees and costs;

3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below; and

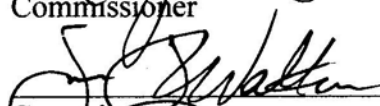
4. That a copy of this Order along with a copy of the Hearing Officer's Recommendation of Dismissal, attached hereto as Exhibit A, and made a part hereof, shall be forthwith served upon each of the parties hereto either personally, or by certified mail, return receipt requested.

ISSUED this 11th day of June 2021.

APPROVED:



Commissioner



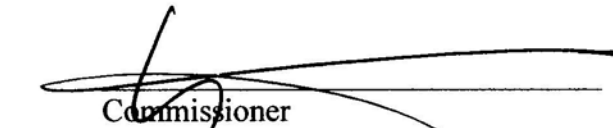
Commissioner




Commissioner



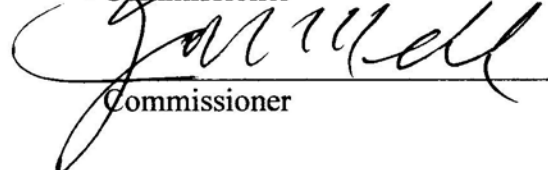
Commissioner



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 11th day of June 2021.



Samuel E. Miller, Chair
Environmental Management Commission
Certified this 11th day of June 2021

**Attorneys for Respondent
Alabama Department of Environmental Management**

Carrie T. Blanton
Mary-Frank Brown
Shawn S. Sibley
Alabama Department of Environmental Management
carrie.blanton@adem.alabama.gov
maryfrank.brown@adem.alabama.gov
ssibley@adem.alabama.gov
(e-mail only)

**Attorneys for Petitioner
Sierra Club**

Julie Kaplan
Environmental Law Program
Sierra Club
Julie.Kaplan@sierraclub.org
Katherine.Lagen@sierraclub.org
(e-mail only)

A. Jerome Dees, II
Walker, LLC
jdees@jdwalker.com
(e-mail only)

**Attorneys for Intervenor
Alabama Power Company**

Thomas G. DeLawrence
James A. Byram, Jr.
Balch & Bingham LLP
tdelawrence@balch.com
jbyram@balch.com
(e-mail only)

Debra S. Thomas
Executive Assistant
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36110-2400
aemc@adem.alabama.gov
(Original by mail or hand delivery and e-mail)