

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: June 20, 2014
TIME: 11:00 a.m.
LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Conference Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

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

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

1. CONSIDERATION OF MINUTES OF MEETING HELD ON APRIL 11, 2014
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. REPORT AND RECOMMENDATIONS FROM THE PERSONNEL COMMITTEE ON THE ADEM DIRECTOR PERFORMANCE EVALUATION FOR COMMISSION CONSIDERATION
5. PHILLIPS TRUCK AND SCRAP TIRE REMOVAL V. ADEM, EMC DOCKET NO. 12-01

The Commission will consider Petitioner Phillips Truck and Scrap Tire Removal's "Dismissal of Request for Hearing" which is viewed as a motion for voluntary dismissal of the request for hearing in this appeal concerning ADEM's Administrative Order 12-061-ST issued on January 13, 2012, to Phillips Truck and Scrap Tire Removal, Gadsden, Alabama, Transporter Permit No. S0000038828.

6. OTHER BUSINESS
7. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

(The Requests from the public to address the Commission are attached to the agenda.)

Request 1

Benjamin Eaton, resident of Uniontown, on behalf of Black Belt Citizens Fighting for Health and Justice, Uniontown, Alabama

SUBJECTS: Several environmental issues of public interest and how the city of Uniontown's Wastewater Treatment Plant offers lessons to be learned by the community and ADEM in addressing longstanding pollution issues in our communities. Presentation slides are titled "What we (BBCFHJ) hope to see from ADEM and the EMC in the near Future." (Chair Brown will recommend that the Commission grant the Request subject to the limitation that the presentation focus on how the city of Uniontown's Wastewater Treatment Plant offers lessons to be learned for future policy considerations, rather than a presentation on the status of the city of Uniontown's Wastewater Treatment Plant which is the subject of ongoing litigation.)

Request 2

Nelson Brooke, Black Warrior Riverkeeper, on behalf of Black Warrior Riverkeeper, Inc., Birmingham, Alabama

SUBJECTS: Update on new developments and issues of concern to Black Warrior Riverkeeper, Inc. at the city of Uniontown's Wastewater Treatment Plant and education on the larger issue of how ADEM and involved stakeholders can address some of the challenging issues presented by municipal wastewater treatment plants. Presentation slides are titled "ADEM and Citizen Stakeholders: The Challenges Presented by Wastewater Treatment Plants with Limited Funding – Lessons Learned: How to Avoid Another Uniontown." (Chair Brown will recommend that the Commission grant the Request subject to the limitation that the presentation focus on education on the issues presented by municipal wastewater treatment plants for future policy considerations, rather than a presentation on the status of the city of Uniontown's Wastewater Treatment Plant which is the subject of ongoing litigation.)

PUBLIC COMMENT PERIOD

(The Requests from the public to address the Commission are attached to the agenda.)

Request 3

David A. Ludder, Esq., on behalf of the ADEM Reform Coalition

SUBJECT: ADEM's current Environmental Justice policy.

Presentation slides are titled "Environmental Justice for All Alabama Citizens."

(Chair Brown will recommend that the Commission grant the Request.)

Request 4

Mitchell L. Reid, J.D., on behalf of the Alabama Rivers Alliance (ARA), Birmingham, Alabama

SUBJECT: Analysis of 2014 EPA response to ARA's 2010 NPDES Petition

(Chair Brown will recommend that the Commission grant the Request.)

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May 2, 2014

H. Lanier Brown, II, Esq., Chairman
Environmental Management Commission
P.O. Box 301463
Montgomery, AL 36130-1463

Via electronic mail and fax

Re: Request to Address the Environmental Management Commission
June 20, 2014 Meeting



Dear Chairman Brown:

Please accept this letter as two separate requests to address the Environmental Management Commission ("EMC" or "Commission") at its regularly scheduled June 20, 2014 meeting.

Benjamin Eaton is a resident of Uniontown, Alabama as well as a member of Black Belt Citizens Fighting for Health and Justice, a nonprofit organization of concerned citizens in Uniontown, Alabama. He would like to address the Commission on several environmental issues of public interest. Mr. Eaton plans to follow up an October 2013 presentation that he made to the EMC about ongoing sewage treatment issues in his community, which was demonstrably of interest to the EMC since they asked many questions which prompted a robust public discussion at that time. His June 2014 presentation offers an informative "Part 2" to that October presentation and will focus on how the City of Uniontown's Wastewater Treatment Plant offers lessons to be learned by both the community and the Alabama Department of Environmental Management ("ADEM") in addressing longstanding pollution issues in our communities. These lessons learned can help ADEM and other stakeholders improve future outcomes in these circumstances.

Nelson Brooke is Riverkeeper at Black Warrior Riverkeeper, Inc., a nonprofit organization located in Birmingham, Alabama, whose mission is to protect and restore the Black Warrior River and its tributaries. The City of Uniontown is in the Black Warrior basin. Mr. Brooke also made an EMC presentation on issues raised by the City of Uniontown's Wastewater Treatment Plant that complemented Mr. Eaton's at the Commission's October 2013 meeting. At the June 2014 meeting, Mr. Brooke plans to present the EMC with an update on new developments and issues of concern to our

organization at the City of Uniontown's Wastewater Treatment Plant. Mr. Brooke's comments will present and provide education on the larger issue of how ADEM and involved stakeholders can address some of the challenging issues presented by municipal wastewater treatment plants that struggle to put together adequate funding and workable plans to meet compliance goals. Mr. Brooke's comments will be instructive not just for the specifics presented by the example of Uniontown, but also may inform the EMC and the public's larger perspective in addressing similar situations in the future.

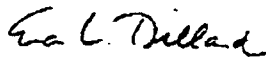
As was the case in October 2013, the two presentations will complement each other rather than provide duplicative or redundant information.

As you know, we do not agree that public comments on City of Uniontown's Wastewater Treatment Plant may be foreclosed by "ongoing litigation involving the Department" as stated previously.¹ See April 2, 2014 Letter to Chairman H. Lanier Brown, II from Eva L. Dillard. However, I want to assure you that neither presentation will mention, address or comment upon the 2008 Agreed Order of Consent between ADEM and Uniontown or ADEM's April 25, 2012 Amended Petition Seeking Finding of Contempt filed in the Circuit Court of Perry County.

The scheduling of each of these presentations is in the public interest, as they will educate and inform both the Commission and the public. Moreover, these presentations will support and contribute to the Commission's mission of developing appropriate environmental policy for the State.

As a courtesy to the Commission, both Mr. Eaton and Mr. Brooke are each happy to submit their slides to you in advance of the meeting so that Commission members may have an opportunity to prepare. Please know that I appreciate your kind consideration of these requests and look forward to hearing from you whether you plan to recommend that the EMC hear these public comments. Thank you.

Sincerely,

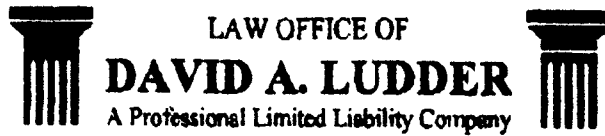


Eva Dillard
Staff Attorney

cc: Debi Thomas, EMC Executive Assistant

¹ Applicable regulation "discourages the members of the Commission from engaging in the non-deliberative discussion of any case or legal proceeding pending before the Commission, or of any decision by the Commission in a case or legal proceeding pending appeal before the Courts of this State" See Ala. Admin. Code r. 335-2-3-.05(3) (emphasis added). Neither Eaton nor Brooke wish to speak about a case or legal proceeding pending before the Commission or a decision by the Commission; they merely want to provide information and offer perspective to a public agency on topics of public interest.

**Robert D. Tambling, Chief
Environmental Section
Office of the Attorney General of Alabama**



May 13, 2014

Delivered via Facsimile & Electronic Mail

H. Lunier Brown, II, Esq., Chair
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36130-146

Re: Request of ADEM Reform Coalition to Speak at June 20, 2014 Meeting

Dear Chairman Brown:

The ADEM Reform Coalition requests that the Alabama Environmental Management Commission allow me, as an authorized representative of the Coalition, to address the Commission during the public comment portion of the Commission's June 20, 2014 meeting. The topic for discussion is ADEM's current Environmental Justice policy which the Coalition contends is both lacking in critical substance and in excess of ADEM's authority to develop and implement. A draft of the Coalition's presentation is attached and a final copy of the presentation will be provided in advance of the meeting.

Please note that Environmental Justice is not the same as Title VI of the Civil Rights Act of 1964 or EPA's Title VI compliance program. This presentation will not address ADEM's Title VI obligations or any pending Title VI complaints against ADEM that have been filed with the U.S. Environmental Protection Agency. Moreover, this presentation will not address any specific regulated facilities.

I look forward to receiving your recommendation.

Sincerely,

David A. Ludder





Alabama Rivers Alliance
Water Is Life

June 6, 2014

H. Lanier Brown, II, Esq.
Chair
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36130-146

Deliver via Facsimile and Electronic Mail

Dear Chairman Brown



In accordance with Alabama Administrative Code Section 335-2-3-.05, this letter is a request to the Alabama Environmental Management Commission for approval to address the Commission during the public comment portion of the Commission's June 20, 2014, meeting. The topic of the discussion is EPA's "Consolidated Interim Response to Three Petitions to Withdraw Alabama's Authorization to Implement the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) Program" dated April 9, 2014. On April 11, 2014, Director LeFleur discussed this report and presented the Department's reaction to the EPA response along with commentary that manifestly misrepresented both the positions and intentions of the Petitioners as well as the EPA's response. In light of the Director's statements and in the interest of fairness, it is critical that the Commission hear the other side of the story. Attached is ARA's analysis of the EPA's response which serves as the draft of my presentation. A final copy of the presentation will be provided in advance of the meeting.

Please note that this request is in keeping with the provisions of Alabama Administrative Code Sections 335-2-1-.26 and 335-2-3-.05(3). As there is no administrative or legal proceedings involving the Commission discussed in this presentation, allowing public participation on this topic cannot be considered Ex Parte communication. Allowing this presentation will not engage members of the Commission in non-deliberative discussion of any case or legal proceeding pending before the Commission, nor of any decision by the Commission in a case or legal proceeding pending appeal before any Court of the State. This request is in no way intended to be, nor will approval of this request result in, a circumvention of any administrative or judicial procedure which specify the time and manner of presenting testimony, evidence, or comment to the Commission in a formal manner designed to provide due process to all parties.

Thank you for your consideration of this request and I look forward to your recommendation.

Sincerely,
Mitchell L. Reid, J.D.
Program Director
Alabama Rivers Alliance