

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: April 15, 2011

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 FEBRUARY 18, 2011
2. REPORT FROM THE DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF ADOPTION OF RESOLUTION REGARDING THE FOREVER WILD PROGRAM
5. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-3, AIR POLLUTION CONTROL PROGRAM REGULATIONS

The Commission will consider the adoption of proposed amendments to ADEM Administrative Code Division 335-3, Air Pollution Control Program Regulations. The proposed revisions incorporate by reference changes promulgated by EPA to the New Source Performance Standards (NSPS) in Chapter 335-3-10, and National Emissions Standards for Hazardous Air Pollutants (NESHAPs) in Chapter 335-3-11. Revisions to Chapter 335-3-14 address revisions made to the EPA new source review regulations. Revisions to Chapter 335-3-16 address the greenhouse gas (GHG) tailoring rule with respect to operating permits for Title V sources. Chapter 335-3-17 is being proposed for revision to add revisions made by EPA to the transportation conformity and general conformity regulations. The Department held a public hearing on the proposed amendments on February 9, 2011.

6. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-6, WATER QUALITY PROGRAM REGULATIONS (NPDES-RELATED MATTER)

The Commission will consider proposed amendments to ADEM Administrative Code Division 335-6, Water Quality Program Regulations, Chapters 335-6-10 and 335-6-11. The revisions to Chapter 335-6-10 would amend rule 335-6-10-.10, Special Designations, to add a second special designation to be called Treasured Alabama Lake with the accompanying description of waters to which this designation could be applied. The revisions to Chapter 335-6-11 would amend rule 335-6-11-.02(11) to add the Treasured Alabama Lake special designation of the Tallapoosa River within Lake Martin and to classify one segment of the Tallapoosa River as Outstanding Alabama Water. The Department held a public hearing on the proposed amendments on March 15, 2011.

7. OTHER BUSINESS
8. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

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

Request 1

Michael William Mullen, on behalf of Choctawhatchee Riverkeeper, Inc.
SUBJECT: Recent improvements on compliance enforcement and
constructive suggestions for much needed immediate and longer term solutions
(Chair Lester will recommend approval of the request.)

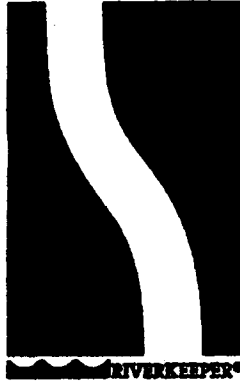
Request 2

David A. Ludder, on behalf of the ADEM Reform Coalition
SUBJECT: Improvements in the Department's penalty calculation methodology
(Chair Lester will recommend approval of the request.)

Request 3

Eva Dillard, on behalf of Black Warrior Riverkeeper, Inc.
SUBJECT: ADEM's penalty and enforcement policy and
deficiencies of the policy illustrated by the recent EMC decision
involving Southeastern Cheese, LLC
(Chair Lester will recommend approval of the request.)

CHOCTAWHATCHEE



Dr. John H. Lester, Chairman
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36110-2400

April 1, 2011

RE: Request to Make Public Comment at April 15 Commission Meeting

April 1, 2011

Delivered via Facsimile
Dr. John H. Lester, Chairman
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36110-2400

Re: Request to Make Public Comment at April 15 Commission Meeting

Dear Dr. Lester:

This letter is written to request that I, on behalf of Choctawhatchee Riverkeeper, Inc., be granted an opportunity to address the Alabama Environmental Management Commission at its April 15 meeting concerning the following topic:

"Recent Improvements on Compliance Enforcement and Constructive Suggestions for Much Needed Immediate and Longer Term Solutions"

This topic is related to both the Department's and the Commission's interest in continuous improvement and also I believe will address eventual long term cost savings.

While my presentation is not fully complete, I will address areas in which ADEM successes should be lauded, point out where systemic issues that hinder or prevent needed further improvements and I will make specific recommendations on actions that could remove those barriers to improvement Prior to the meeting date, I will provide an outline of my presentation and copies of any documents and slides I intend to use.

Thank you for your consideration of this request.

Sincerely,

Michael William Mullen
Choctawhatchee Riverkeeper

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April 1, 2011

Delivered via Facsimile

Dr. John H. Lester, Chairman
Alabama Environmental Management Commission
1400 Coliseum Boulevard
Montgomery, AL 36110-2400



Re: Request to Make Public Comment at April 15 Commission Meeting

Dear Dr. Lester:

This letter is written to request that I, on behalf of the ADEM Reform Coalition, be granted an opportunity to address the Alabama Environmental Management Commission at its April 15 meeting concerning the following topic:

Improvements in the Department's penalty calculation methodology

This topic is germane to the Commission's statutory authority to "advise the director on environmental matters which are within the department's scope of authority" and to "develop environmental policy for the state." Ala. Code § 22-22A-6(a).

While my presentation has yet to be prepared, I anticipate that I will address the principles and purposes of penalty assessments and suggest a proposed methodology to fulfill those principles and purposes. Prior to the meeting date, I will provide an outline of my presentation and copies of any documents and slides I intend to use.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "David A. Ludder".

David A. Ludder

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April 1, 2011

Dr. John H. Lester, D.V.M., Chair
Environmental Management Commission
P.O. Box 301463
Montgomery, AL 36130-1463



**Re: Request for Opportunity to Address the Environmental Management Commission
ADEM's Penalty Assessment Policy/Southeastern Cheese, LLC
April 15, 2011 Environmental Management Commission Meeting**

Dear Dr. Lester:

Black Warrior Riverkeeper, Inc. (Riverkeeper) is a non-profit organization located in Birmingham, Alabama, whose mission is to protect and restore the Black Warrior River and its tributaries. On behalf of Riverkeeper, we would like the opportunity to address the Environmental Management Commission (EMC) on the subject of ADEM's current penalty assessment policy at your regularly scheduled meeting April 15, 2011.

We believe that the recent EMC case involving Southeastern Cheese, LLC highlights the need for a more structured penalty and enforcement policy at ADEM. As you may know, this issue has been the subject of longstanding concern by environmental stakeholders and the regulated community alike. Without a consistent, predictable and structured method of penalty calculation, ADEM program staff is at an extreme disadvantage as they work to promote compliance and assign appropriate penalties when violations occur. Refining that policy will not only enhance ADEM's enforcement of the state's environmental laws; it will also afford environmental stakeholders and the regulated community a degree of predictability, uniformity and certainty that the current policy simply does not provide. A specific presentation about how some of the deficiencies of current policy are illustrated by the Southeastern Cheese, LLC decision may offer the EMC some insight into this important issue.

Please know that I appreciate your consideration of our request. Thank you.

Sincerely,

Eva Dillard
Staff Attorney
Black Warrior Riverkeeper

cc: Debi Thomas, EMC Executive Assistant