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A L A B A M A  
**Environmental Update**

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**ALABAMA ENVIRONMENTAL MANAGEMENT  
COMMISSION MEETING OF APRIL 22, 2003**

**DIRECTOR'S REPORT:**

ADEM Director Jim Warr began his report by noting that today was Earth Day and explained that the Department was supporting the day's events in various manners and methods. He then moved on to a discussion of ADEM's budget and reported that the department was "in pretty good shape at this point [halfway through] in the fiscal year." He did note, however, that ADEM's budget will be decreased by 18% in the coming fiscal year, which is a decrease in line with reductions faced by other state agencies.

Director Warr then informed the Commission of a number of contracts the Department had executed. Significant among them was a joint pilot project with the State of Mississippi entitled the "Tombigbee Resource Conservation Development Council." The project land straddles the state line between Mississippi and Pickens County, Alabama, and is intended to demonstrate the value of automation, computer modeling, and monitoring in efforts to more efficiently apply pesticide and fertilizer.

Director Warr also advised the Commission that ADEM would, in the near future, promulgate new air regulations to address proper seasonal limitations on open burning in the state of Alabama. He also reported that EPA had recently lauded ADEM's "probability based monitoring" in estuaries as a cost-efficient but still effective measure that other states should emulate as they struggle with decreasing funds and budgets.

At the conclusion of Director Warr's report, Commissioner Hairston questioned him regarding the Department's participation in ongoing water allocation negotiations with Georgia and Florida. Director Warr explained that the Alabama Office of Water Resources was the lead state agency in those negotiations, but that ADEM was monitoring the discussions and proposals and providing input as necessary.

Commissioner Byington then questioned Director Warr on whether the Department was supporting SB 338/HB 433, a bill that would require ADEM to publish a list of parties who had

violated their permits. Director Warr explained that it was ADEM's position that HB 434, which is intended to address the McAbee case's concerns regarding public participation in water quality violation negotiations, adequately addressed such concerns when coupled with ADEM's current public notice practices.

**COMMISSION ACTIONS:**

The Commission voted unanimously to adopt amendments to Division 7, which are ADEM's drinking water regulations. The amendments were necessary for ADEM's regulations to continue to confirm with changes in the federal regulations.

The Commission then considered the matter of East Central Alabama Alliance for Quality Living v. ADEM, and Town of Loachapoka, et al. v. ADEM, and Florida Rock Industries, Inc., Intervenor, EMC Consolidated Docket Nos. 03-01 and 03-02. That matter involved the appeal of an NPDES permit. By a vote of 6-1, the Commission accepted the Hearing Officer's recommendation and granted summary judgment. Commissioner Byington was the lone negative vote.

Commission Chairman Sanders then discussed a letter introduced at a previous Commission meeting by Commissioner Byington, which had called for the Commission to develop a strategic plan and to eventually assess the progress of the same. The chairman announced that a committee of various stakeholders, to be chaired by former Commissioner Stan Graves, would examine those issues and report back to the Commission, hopefully within twelve months. The Commission voted in favor of that motion.

The Commission then allowed Rev. Mark Johnston, Executive Director of Camp McDowell, the Church Camp and Conference Center for the Episcopal Diocese of Alabama, and a spokesman for the ADEM Reform Coalition (ARC), to speak. Johnston called for ADEM to adopt a stronger mission statement and voiced support for ADEM's efforts to maintain appropriate funding levels. He also thanked the Commission and ADEM for meeting with him and several other representatives of ARC earlier this month.

Commissioner Byington then introduced two resolutions. The first called for a statement of appreciation of America's military and the ADEM's employees currently mobilized for active duty. The second expressed support for certain bills, including legislation supporting brownfields activities and better scrap tire regulation, currently pending in the Legislature. The Commission adopted both resolutions.

#### **OTHER ITEMS:**

The following environmental bills have been introduced in the Alabama House or Senate during the 2003 Regular legislative session.

SB 30 – Senator Penn (D-Union Springs) – requires local approval, in a manner similar to what is currently required for landfills, for granite and limestone surface mining operations

SB 97 - Senator Barron (D-Fyffe) – creates a Land Recycling Finance Authority Loan Program administered by ADEM to support the state's Brownfields program

SB 98 - Senator Little (D-Auburn) – authorizes tax abatement for Brownfields voluntary cleanup activities

SB 132/HB 186 - Sen. Means (D-Attalla) and Rep. Ford (D-Gadsden) – regulates the accumulation, disposal, and remediation of scrap tires

SB 164/HB 144 - Sen. Means (D-Attalla) and Rep. Layson (D-Reform) – amends Environmental Management Commission membership by replacing the certified well driller position with a geologist and replacing the "at large" position with qualified agriculture or forestry representative

SB 338/HB 433 – Sen. Little (D-Auburn) and Rep. Schmitz (D-Toney) – requires ADEM to publish list of violators

SB 373 - Sen. Little (D-Auburn) – requires ADEM's Director to be appointed by the Governor and confirmed by the Senate

HB 115 - Rep. Payne (R-Birmingham) – regulates grease and animal byproduct disposal methods and transportation

HB 176 - Rep. Perdue (D-Birmingham) – authorizes state and county authorities to levy additional fee on motor vehicle registrations to finance mass transit improvements

HB 368 - Rep. Clouse (R-Ozark) – creates advisory board to oversee management of Alabama's underground and aboveground storage tank trust fund

HB 434 - Rep. Carns (R-Birmingham) – requires additional public notice and participation concerning the enforcement of water pollution violations

HB 478 – Rep. Allen (R-Cottondale) – amends the Alabama Environmental Response Dry Cleaning Trust Fund Act

**NEXT MEETING:**

The Commission's next meeting is scheduled for June 17, 2003 at 1:30 p.m.

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Questions about items appearing in this Update may be directed to Bill Satterfield at (205) 226-3423 in Birmingham or Jim Byram at (334) 269-3159 in Montgomery, or our website can be accessed at [www.balch.com](http://www.balch.com). This publication is intended to provide general information. It is not intended as a solicitation and, in the event legal services are sought, no representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers.