

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
OCTOBER 22, 2015

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, October 22, 2015, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

John Dane III
Charles Dunagin
Dick Flowers
Brenda Lathan
Chat Phillips
Billy Van Devender, Chairman
Jack Winstead

Others present were: Gary Rikard, Executive Director; Willie McKercher, Mike Freiman, Kim Caviness-Reardon, Shawn Clark, Krista Caron, Ted Lampton, staff of MDEQ; and other staff members and visitors whose names appear elsewhere in these minutes.

The meeting was called to order by Chairman Van Devender and after he led the invocation, the following business was transacted:

Approval of Minutes

On motion made by Mr. Flowers and seconded by Mr. Dunagin, the minutes of the August 27, 2015 meeting were approved and adopted as the Official Minutes.

Commission Approval of Brownfield Consulting Firms

Mr. Willie McKercher stated that staff reviewed applications from consulting firms requesting to be listed as Brownfield Consulting Firms and determined them to be complete and acceptable. Staff recommended that the Commission approve the following firms as Brownfield Consulting Firms:

FC&E Engineering, LLC
PO Box 1774
Brandon, MS 39043

Waggoner Engineering, Inc.
143-A Lefleurs Square
Jackson, MS 39211

Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Winstead, the Commission unanimously voted to approve FC&E Engineering, LLC, and Waggoner Engineering, Inc., as Brownfield Consulting Firms.

Commission Approval of Environmental Covenant

Mr. Willie McKercher stated that staff recommended the Commission approve the Environmental Covenant between the Commission, Gayle and Tommy M. Davis, and the United States Environmental Protection Agency ("EPA") regarding the remediation of property located on Jackson Road in Hattiesburg, Lamar County, Mississippi, referred to as the "Davis Timber Company Superfund Site." The facility has historically been utilized as a wood treatment operation. Hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants remain on the Property. The property is the subject of a remedial action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq. ("CERCLA"), more particularly described in the EPA's Record of Decision ("ROD") issued on September 24, 2009. EPA selected a remedial action for the property in the ROD that involved capping of contamination in place. Therefore, remediation of the site is necessary. The restrictions presented in the proposed environmental covenant will allow for the site to be used as a community-based animal shelter. Staff of the MCEQ evaluated the proposed Environmental Covenant and believes that, with the conditions and restrictions contained within, the site will be in compliance with applicable State and Federal laws and standards and will be protective of the public health and the environment. Mr. McKercher stated that MDEQ received the

Excellence in State Engagement Supporting Reuse Award from EPA for this facility. Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Mr. Flowers, the Commission unanimously voted to approve the Environmental Covenant between the Commission, Gayle and Tommy M. Davis, and the United States Environmental Protection Agency (“EPA”) regarding the remediation of property located on Jackson Road in Hattiesburg, Lamar County, Mississippi, referred to as the “Davis Timber Company Superfund Site.”

2015 Triennial Review: Proposed Amendments to MS’s Water Quality Standards

Mr. Mike Freiman introduced Mrs. Kim Caviness-Reardon who updated the Commission on the proposed amendments to Mississippi’s water quality standards. Mrs. Caviness-Reardon stated MDEQ is required by the Clean Water Act to routinely review and update the state’s water quality standards document in a process known as the triennial review. The last modifications to Mississippi’s Water Quality Standards were adopted by the Commission in June 2012. Staff previously provided the Commission with an overview of the proposed amendments to the State’s water quality standards. During this triennial review, staff proposes to update the criteria for recreational waters based on EPA’s most recent recommendations released in 2012. Based on the 2012 EPA recommendations, staff proposes to update the bacterial indicator for freshwaters from fecal coliform to e.coli. Minor modifications to the language regarding pH criteria were also made in an effort to provide clarification. The public comment period for the proposed revisions to the State’s water quality standards is currently underway and the public hearing is scheduled for November 5th. After the public hearing, staff will compile any comments received and make any necessary revisions. Staff will then come back before the Commission for adoption of these amendments in early 2016. This briefing was for informational purposes only, requiring no action by the Commission.

Mississippi Priority Framework for Listing Priority Watersheds

Mr. Mike Freiman introduced Mr. Shawn Clark who informed the Commission of MDEQ’s efforts to comply with a national initiative by USEPA to develop a process to prioritize watersheds. The objective of this initiative is to develop a prioritization process that coordinates and focuses efforts to advance the effectiveness of water programs. In response to this initiative MDEQ staff has developed a process which establishes a systematic and multi-program approach to set planning priorities for watershed protection and restoration. This briefing was for informational purposes only, requiring no action by the Commission.

Commission Approval of Hazardous Waste Management Regulation Amendments

Ms. Krista Caron stated a public hearing was held on September 15, 2015, concerning the adoption of hazardous waste rules promulgated by EPA. These rules included amendments to management criteria for cathode ray tubes promulgated June 26, 2014; criteria regarding carbon dioxide streams when used for carbon sequestration promulgated January 3, 2014; and implementation of the electronic manifest system promulgated February 7, 2014. There were no attendees to the public hearing and staff received no comments on the proposed rules. Therefore, staff recommended the Commission adopt these hazardous waste regulation amendments. Adoption of these regulations maintains consistency between the Mississippi Hazardous Waste Regulations and the EPA Hazardous Waste Regulations as required by 40 CFR 271.4. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Winstead, the Commission unanimously voted to adopt the hazardous waste regulation amendments promulgated by EPA.

Adoption of amendments to 11 Miss. Admin. Code Ch. 1, Pt. 1, “Regulations Regarding the Delegation of Authority from the Mississippi Commission on Environmental Quality to the Executive Director of the Mississippi Department of Environmental Quality”

Mr. Ted Lampton stated a public hearing was held on October 14, 2015, concerning proposed amendments to Commission Regulations 11 Miss. Admin. Code Ann. Pt. 1, Ch.1, Regulations Regarding the Delegation of Authority from the Mississippi Commission on Environmental Quality to the Executive Director of the Mississippi Department of Environmental Quality. The proposed amendments make numerous formatting changes and clarifies the Executive Director’s authority to issue orders pursuant to Miss. Code Ann. § 53-9-69(1) of the Mississippi Surface Coal Mining and Reclamation Law, to enter into reciprocity agreements with other states related to certifications when so authorized by law or rules and regulations, to issue administrative

orders to require compliance of water well drillers who are operating in violation of Mississippi law, regulations, or other Orders, to execute, approve and amend environmental covenants, to delegate the authority to sign Commission Orders to the Chief of Staff, to re-issue, deny, or revoke Asbestos Certifications and approve Asbestos Abatement Training Programs, to re-issue, deny, or revoke Underground Storage Tank (UST) Certifications to individuals authorized to install, alter and /or close USTs, to re-issue, deny, or revoke Landfill (Solid Waste) Operator and Class I Rubbish Site Operator Certifications, re-issue, deny, or revoke Wastewater Operator Certifications and approve Wastewater Training Programs, to re-issue, deny, or revoke Water Well Driller Licenses, to re-issue, deny, or revoke Lead Certifications and approve Lead-Based Paint Activities Training Programs, to re-issue, deny, or revoke Waste Tire Transporter Certificates, to requisition and use funds in the Nonhazardous Solid Waste Corrective Action Trust Fund and the Waste Tire Abatement Funds, to discharge or exercise any power or duty granted to the Commission by the provisions of the Surface Coal Mining and Reclamation Law and its respective rules and regulations, and to approve and award Regional Recycling Cooperative Grants and Nonhazardous Solid Waste Corrective Action Trust Fund Cooperative Agreements. No comments were received. Staff previously provided the Commission with the final version of the proposed amendments for consideration. Following staff presentation and deliberation, on motion made by Mr. Dunagin and seconded by Mr. Winstead, the Commission unanimously voted to adopt the proposed amendments to Commission Regulations 11 Miss. Admin. Code Ann. Pt. 1, Ch.1, Regulations Regarding the Delegation of Authority from the Mississippi Commission on Environmental Quality to the Executive Director of the Mississippi Department of Environmental Quality.

Adoption of amendments to Commission Regulation 11 Miss. Admin. Code Pt. 1, Ch. 2, "Regulations Regarding the Review and Reproduction of Public Records"

Mr. Ted Lampton stated a public hearing was held on October 14, 2015, concerning proposed amendments to Commission Regulations 11 Miss. Admin. Code Pt. 1, Ch. 2, Regarding the Review and Reproduction of Public Records. The proposed amendments are to provide clarity, further detail how public record requests can be made and how the Department processes such requests. No comments were received. Staff previously provided the Commission with the final version of the proposed amendments for consideration. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Dunagin, the Commission unanimously voted to adopt the proposed amendments to Commission Regulations 11 Miss. Admin. Code Pt. 1, Ch. 2, Regarding the Review and Reproduction of Public Records.

Solid Waste Assistance Grants and Waste Tire Grants

On previous authority delegated to the Executive Director, MDEQ, the Commission was provided a listing by staff of the following solid waste assistance grants that have been awarded to local governments:

<u>County/ Municipality</u>	<u>Grant Amount</u>
Carroll County Board of Supervisors	\$ 12,327
Clay County Board of Supervisors	10,618
Leake County Board of Supervisors	25,728
Pearl River County Board of Supervisors	23,434

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 188 asbestos certifications had been issued since the last report.

Emergency Clean-Up Expenses

On previous authority delegated to the Executive Director, the staff reported the Emergency Clean-Up Expenses incurred since the Commission's last meeting. A list of these expenses is made a part of these minutes and is filed in the Official Minutes File.

Lead Paint Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 119 lead paint certifications had been issued since the last report.

Underground Storage Tank (UST) Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 18 certifications to those who install, alter, or remove underground storage tanks had been issued since the last report.

Administrative Orders

On previous authority delegated to the Executive Director, DEQ, the staff reported that 10 Administrative Orders had been issued since the Commission's last meeting. A list of these orders is made a part of these minutes and is filed in the Official Minutes File.

Approval to Enter into Executive Session

Executive Director, Gary Rikard, stated there were on-going litigation matters to be discussed and the Commission needed to consider going into Executive Session. Since this would be a briefing, the Commission would not be taking or reporting any action. Mr. Dunagin made the motion for the Commission to enter into Closed Session to determine if the Commission should go into Executive Session. Mr. Winstead seconded the motion and the motion was unanimously approved. Everyone left the meeting room except the Commission and appropriate MDEQ staff. After the Closed Session was held, the Commission came back into open session. On motion made by Mr. Dunagin and seconded by Mr. Dane, the Commission unanimously voted to go into Executive Session. After the Executive Session was held, the Commission came back into open session and stated that no actions were taken during the Executive Session.

Setting of Meeting

On motion made by Mr. Phillips and seconded by Mr. Winstead, the Commission unanimously voted to meet next on Wednesday, December 2, 2015, beginning at 9:00 a.m., in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned.


VICE-CHAIRMAN

ATTEST:


EXECUTIVE DIRECTOR