

**MINUTES OF THE MISSISSIPPI ENVIRONMENTAL QUALITY
SPECIAL PERMIT BOARD MEETING
HELD IN JACKSON, MISSISSIPPI, ON TUESDAY, AUGUST 25, 2014**

The Mississippi Environmental Quality Permit Board held a Special Permit Board Meeting in the Commission Hearing Room of the Department of Environmental Quality, located at 515 East Amite Street, on August 25, 2014. David Snodgrass called the meeting to order at 9:00 a.m. with the following members and designated representatives present:

Dennis Riecke for Sam Polles
Bill Moody for Leslie Royals, Chairman
Jim Lipe for Cindy Hyde-Smith
David Snodgrass, Vice Chairman
Jan Boyd for Jamie Miller
Jim Hoffmann for Kay Whittington
Mike Bograd recused himself from the meeting

There were concerned citizens present in opposition to the permit. Those citizens were Sylvia Thomas, Robert Tyson, and Patricia Sanders. Also present and spoke were Michele McCain, Attorney for Robert Tyson, Eddie Abdeen, Attorney for Sides Properties and Birdsong Construction, Mike Espy, Attorney for Madison County Board of Supervisors and Roy Furrh, General Counsel of MDEQ was present to address questions. James Matheny, Director of the Surface Mining and Reclamation Division of the Office of Geology, presented information to the Board concerning the permit.

**THE PERMIT BOARD CONSIDERED THE FOLLOWING
OFFICE OF GEOLOGY MATTERS:
Mining and Reclamation Division**

Birdsong Construction Surface Mining Permit A1878 and Coverage under the Mining (NPDES) Permit No. MSR322309, Madison County, Mississippi

Birdsong Construction ("Birdsong") applied for a surface mining permit and for coverage under the Mining NPDES Permit, for a 31.25 acre surface mine to be located in Section 20, Township 7 North, Range 1 East, off Greens Crossing Road, in Madison County, Mississippi. James Matheny, with MDEQ's Office of Geology, made a presentation on behalf of MDEQ. Mr. Matheny advised the Permit Board that on June 6, 2013, the Office of Geology received a Notice of Exempt Operations from Sides Properties for the mine site. Upon discovering that Sides Construction had mined more than four acres, the Office of Geology ordered Sides Properties, in September 2013, to stop all mining activity and obtain a surface mining permit. Sides Properties submitted a surface mining application shortly thereafter; however, the application was incomplete. In December 2013, Birdsong submitted a complete surface mining application for the same location to replace the Sides Properties application. Birdsong applied for an 80 acre open pit mine; however, Birdsong informed MDEQ that it did not intend to mine the entire 80 acres. Birdsong plans to mine a total depth of 15 feet; thereafter, the mine site would be developed with two lakes and a residential subdivision. Birdsong submitted an \$80,000.00 performance bond to ensure reclamation of the site.

Birdsong submitted a revised application reducing the mine site to 31.25 acres. Birdsong revised its application in response to a preliminary jurisdictional determination by the United States Army Corps of Engineers ("USACE") finding that there could potentially be wetlands located on part of the site. To move forward on development of the site pending USACE's final jurisdictional determination, Birdsong proposed to avoid the potential wetlands by only removing borrow materials from the east side of the property and by establishing a 50 foot buffer between the excavation area and the potential wetland areas. Birdsong would also install silt fences and hay bales along the entire buffer area. The USACE approved Birdsong's proposal and MDEQ directed Birdsong to revise its Storm Water Pollution Prevention Plan to include the 50 foot buffer zone. Birdsong did not request a reduction of the \$80,000.00 bond commensurate with the reduced acreage requested in the revised application.

MDEQ went to public notice on the permit application on December 18, 2013, and held a public hearing on March 10, 2014, to receive public comments. The Permit Board scheduled a Special Permit Board meeting for August 25, 2014, and MDEQ staff notified the public of the Special Meeting time and place. MDEQ staff provided the Permit Board with copies of the public hearing transcript, a summary of the public comments, MDEQ's responses to the public

comments, an affidavit submitted by Mr. Robert Tyson, correspondence from the USACE and Madison County, MDEQ maps, the proposed surface mining permit, and other relevant materials. Several visitors attended the Special Meeting and were allowed to address their comments to the Permit Board. Attorney Michele McCain spoke on behalf of Mr. Robert Tyson who owns land near the proposed site and who opposes the proposed mining. Ms. McCain stated that the Permit Board should reject the revised application because the Madison County Board of Supervisors approved a zoning variance approving an 80 acre site with two lakes. Ms. McCain stated that Supervisor Banks objected to permit issuance if the plan did not include the two lakes and mining was conducted beyond the two lakes. Ms. McCain also stated that the Permit Board should decline to issue the permit because the land had been disturbed before the Mississippi Department of Archives and History could evaluate the land for the presence of cultural resources. Mr. Tyson also addressed the Permit Board and requested that the Board deny the permits because he did not believe the application was complete and further that Birdsong should be required to submit an engineering drawing accounting for the materials that would be mined. Ms. Sylvia Thomas also addressed the Permit Board and conveyed the community's opposition to the proposed site. Ms. Thomas stated that the community is already burdened by landfills and rubbish sites. Ms. Thomas stated that the community is not opposed to development in the area; however, they do not believe Birdsong will follow through on developing the site as a subdivision. Ms. Thomas was concerned with impacts associated with mining activities such as erosion and noise. She also was concerned that, once mined, the site would be used as a dump. Ms. Patricia Sanders also stated her opposition to the permit application questioning how the Permit Board could consider an incomplete application and she indicated she did not receive all the materials provided to the Permit Board.

Eddie Abdeen addressed the Permit Board on Birdsong's behalf. Mr. Abdeen stated that the project is and always has been a planned residential subdivision with two lakes. Mr. Abdeen stated that one part of the property is steep and Birdsong needs the permit so it can bring the steep area of the land down to grade. Mr. Abdeen stated that the only reason it revised its permit application to 31.25 acres was to allow it to begin removing dirt while the USACE finalized its findings regarding the potential wetland areas on the site. Mr. Abdeen noted that the entire \$80,000.00 performance bond is still in place for the entire 80 acre site. Mr. Abdeen also advised the Permit Board that Birdsong hired Dr. Keith Baca with Mississippi State University to do a cultural survey of the site. Dr. Baca found that no cultural resources would be impacted by the project. Mr. Abdeen stated that he would work with Ms. Thomas to ensure that the impacts from the mining would be minimal.

Attorney Mike Espy addressed the Permit Board on behalf of the Madison County Board of Supervisors. Mr. Espy stated that the Board of Supervisors speaks through its minutes and that its minutes reflect that it approved the project. He stated that Supervisor Banks was one of the biggest proponents of the project and that the Board supports the revised application to mine a lesser amount of land while the USACE completes its review.


Mr. Matheny acknowledged the community's concerns with environmental justice. Mr. Matheny stated that the only impacts to the community would be for a short period of time and would likely only be traffic related. Mr. Matheny stated that MDEQ was satisfied that there would be no additional negative environmental consequences from the surface mining operation as long as Birdsong complied with the regulations, permit conditions, and followed through on the reclamation plan. Mr. Matheny also stated that Birdsong submitted Dr. Baca's report to the Mississippi Department of Archives and History and that the Department found the report acceptable. Mr. Matheny also stated that Birdsong did submit a complete application; while the revised application was not entirely completed, MDEQ considered the information as a supplement to the original Birdsong applications which were revised to address USACE's concerns. Mr. Matheny recommended that the Permit Board issue the permits.

On motion by Mr. Lipe and seconded by Mr. Boyd, the Permit Board voted to issue the permits. Mr. Bograd, Director of MDEQ's Office of Geology, did not vote or participate in the Permit Board proceedings.

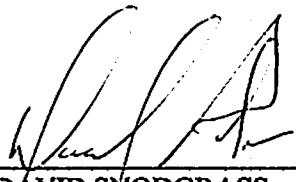
MEETING ADJOURNED

There being no further business to come before the Permit Board and on motion by Mr. Jan Boyd and seconded by Mr. Dennis Riecke, the meeting stood adjourned.

DATED at Jackson, Mississippi, this the 25th day of August, 2014.



GARY C. RIKARD
EXECUTIVE DIRECTOR



DAVID SNODGRASS
VICE CHAIRMAN