

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICIAL MINUTES  
MAY 25, 2017

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, May 25, 2017, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

John Dane III  
Dick Flowers  
Ted Kendall IV  
Brenda Lathan  
Chat Phillips  
Billy Van Devender, Chairman

Commissioner Jack Winstead was not present.

Others present were: Gary Rikard, Executive Director; Lynn Chambers, Roy Furrh, James Matheny, Lisa Ouzts, 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. Kendall and seconded by Mr. Dane, the minutes of the February 23, 2017, meeting were approved and adopted as the Official Minutes.

Commission Approval of Brownfield Agreement

Ms. Lynn Chambers, on behalf of MDEQ staff, recommended the Commission approve the Brownfield Agreement between the Commission and WALM Properties, LLP regarding the remediation of brownfield property located at 1140 Industrial Access Road in West Point, Mississippi. The administrative record for this environmental response project is referred to as the Big Yank Building site. The impacted area is centered around a former chemical storage shed located in the southwest portion of the property. Assessments revealed the extent of contamination in the groundwater and soil at levels in excess of the Target Remediation Goals, so remediation of the Brownfield Agreement Site is necessary. The proposed use of the Site after completion of all remediation will be an administrative office and staging area for a transportation business based out of West Point, MS. The staff of the MDEQ evaluated the Brownfield Agreement and believes that, with the conditions and restrictions contained within the Brownfield Agreement, 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. Following staff presentation and after deliberation, on motion made by Mr. Flowers and seconded by Ms. Lathan, the Commission unanimously voted to approve the Brownfield Agreement between the Commission and WALM Properties, LLP regarding the remediation of brownfield property located at 1140 Industrial Access Road in West Point, Mississippi.

Commission Approval of Brownfield Obligation Transfer

Ms. Lynn Chambers stated the Commission reached a Brownfield Agreement (#6130-12) with NCI Building Systems, Inc. for the remediation of the CECO Building Systems facility in Columbus, Mississippi on June 1, 2012. In accordance with Rule 2.1.5.C of Part 3, Chapter 2: Final Regulations Governing Brownfield Voluntary Cleanup and Redevelopment in Mississippi, NCI Building Systems, Inc. and Grandview Investments, LLC jointly provided a petition to the MCEQ that Grandview Investments, LLC has the financial, managerial, and technical resources to complete performance of the Brownfield Agreement obligations and agrees to complete this performance. The staff of the MDEQ reviewed the petition, and recommended that the Commission issue an order in accordance with the Brownfield Regulations approving the transfer of those obligations in Brownfield Agreement #6130-12 from NCI Building Systems, Inc. to Grandview Investments, LLC. CECO Building Systems continues to operate in the space, and will continue to operate in the space, leasing the land and building from Grandview Investments, LLC. Following staff presentation and after deliberation, on motion made by

Mr. Flowers and seconded by Mr. Kendall, the Commission unanimously voted to approve the transfer of obligations in Brownfield Agreement #6130-12 from NCI Building Systems, Inc. to Grandview Investments, LLC.

Commission Rescind Brownfield Agreement and Accompanying Environmental Covenant Wal-Mart Real Estate Business Trust-Pascagoula, Jackson County

Ms. Lynn Chambers stated that during the November 10, 2016 Commission Meeting, staff presented a request from Wal-Mart Real Estate Business Trust to rescind Brownfield Agreement Order Number 6661 16. The Commission voted to table consideration of this matter until the next Commission meeting. Wal-Mart Real Estate Business Trust and the property owner, Estabrook Toyota have been in negotiations since that time to finalize corrective action alternatives for the property prior to rescinding the Brownfield Agreement. The staff of the MDEQ evaluated the request to rescind the Brownfield Agreement Order and believes that in accordance with applicable State laws and standards, Wal-Mart Real Estate Business Trust is not responsible for remediation of the petroleum related contaminants in the groundwater and soil. Staff recommended that the Commission rescind Brownfield Agreement Order Number 6661 16 between MDEQ and Wal-Mart Real Estate Business Trust and the accompanying Environmental Covenant. Following staff presentation and after deliberation, on motion made by Mr. Flowers and seconded by Mr. Phillips, the Commission unanimously voted to rescind Brownfield Agreement Order Number 6661 16. Executive Director, Gary Rikard, thanked all parties for working with MDEQ staff toward a mutual resolution in this matter.

Serenity Lane, Pearl River County -- Evidentiary Hearing held on October 17 and 18, 2016--  
Hearing Officer's Proposed Findings and Recommendations for Commission's Consideration

Mr. Roy Furrh stated that the Commission was previously provided with electronic access to the record of this matter for review, which is an exhaustion of administrative remedies case. The records include the transcript of the evidentiary hearing; exhibits submitted by the Petitioners (Residents of Serenity Lane Subdivision), MDEQ staff, and the Intervenors (Fort James Corporation); and previous Findings and Recommendations and Orders entered by the Hearing Officer Spencer and the previous Commission designated Hearing Officer Rubisoff. Additionally the Commission was provided with Hearing Officer Spencer's proposed Findings and Recommendations following the evidentiary hearing. Mr. Furrh then introduced Commission designated Hearing Officer, Frank Spencer, to present his proposed Findings and Recommendations to the Commission related to the Serenity Lane Evidentiary Hearing, which was held on October 17 and 18, 2016. Mr. Spencer stated that the Serenity Lane homeowners claim there is contamination on their property caused by Fort James and previous landowners. EPA and MDEQ have been to the site but did not find any hazardous contamination. They did find trace elements of many different components but nothing that exceeded the level of concern for both EPA and MDEQ. Mr. Spencer also stated that this case had been narrowed down to two main issues: 1) Does the Serenity Lane property contain contaminants which present a threat to human health and the environment, and which would be sufficient enough to authorize funds be expended from the Mississippi Non-Hazardous Solid Waste Corrective Action Trust Fund? and 2) Did Fort James violate the Solid Waste Disposal Law, Sections 17-17-1 through 17-17-47 of the Mississippi Code, by disposing of solid waste on the Serenity Lane property? The evidence presented by the petitioners consisted of general statements of concern by the homeowners listed in the case. Petitioners and witnesses examined this property over a long period of time and noticed objects like bricks, drums and paper, but the wastes were primarily household wastes. While it had been recognized that there was a dumpsite on the property previously, all wastes had been covered. An environmental evaluation was also previously conducted and it was determined that there was no contamination at levels of concern. Mr. Spencer further stated that no contamination at levels of concern to human health and the environment were ever uncovered by the Petitioners, MDEQ, EPA or the Mississippi Department of Health. The Mississippi State Department of Health also continues to monitor samples from Springhill Water Association Well, which provides drinking water to the residents. Mr. Spencer concluded by recommending the Commission accept his findings and recommendations in this matter which were that the Petitioners did not demonstrate the Serenity Lane property contained sufficient contaminants, which would present an actual or potential threat to human health or the environment and to deny the Petitioners' request to expend funds from the Mississippi Nonhazardous Solid Waste Corrective Action Fund. In addition, Mr.

Spencer stated he found no substantial evidence indicating Fort James violated the Solid Waste Disposal Law by disposing of solid wastes on the property. Following staff presentation and after deliberation, on motion made by Mr. Flowers and seconded by Mr. Phillips, the Commission unanimously voted to accept the Findings and Recommendations of Hearing Officer, Frank Spencer related to the Serenity Lane Evidentiary Hearing and to take no further assessment and remedial action at the Serenity Lane site.

Establishment of the Lignite Mining Fee for Liberty Fuels Company, LLC for the Liberty Mine in Kemper County for State Fiscal Year 2018;

Establishment of the Lignite Fee for the Mississippi Lignite Mining Company for the Red Hills Mine in Choctaw County for State Fiscal Year 2018

Mr. James Matheny, on behalf of MDEQ staff, recommended the Liberty Fuels Company, LLC Lignite Mining Fee for the 2018 state fiscal year be set at \$125,000, which is the same as for state fiscal year 2017. On behalf of staff, Mr. Matheny also recommended that the Mississippi Lignite Mining Company Lignite Mining Fee for the 2018 state fiscal year be set at \$125,000, which is the same as for state fiscal year 2017. This amount will cover approximately 50% of the anticipated costs of administering the federally-approved coal mining program in Mississippi; the remaining approximately 50% of the cost will be covered by a federal Office of Surface Mining Reclamation and Enforcement grant. These fees will cover 100% of the anticipated cost of administering the program above the amount of the federal OSMRE grant. Staff also recommended that the Commission delegate the authority to sign the Orders to the Executive Director. Following staff presentation and deliberation, on motion made by Ms. Lathan and seconded by Mr. Phillips, the Commission unanimously voted to set the Liberty Fuels Company, LLC Lignite Mining Fee for the 2018 state fiscal year at \$125,000 and set the Mississippi Lignite Mining Company Lignite Mining Fee for the 2018 state fiscal year at \$125,000. The Commission also authorized Orders setting these fees be executed by the Executive Director.

Update Commission on the Volkswagen Settlement

Ms. Lisa Ouzts stated that Volkswagen admitted they sold diesel cars and engines with defeat devices designed to cheat emissions tests. Volkswagen entered into a settlement with the United States and the State of California to mitigate environmental damage from these cars. Part of the agreement will include buying back cars and leases, establishing a zero emissions vehicle investment plan, and establishing an environmental mitigation trust fund. Each State has been allocated a certain amount of money in the mitigation trust fund for mitigation projects. Mississippi's allocation is just under \$10,000,000. The Trustee of the mitigation trust fund was recently approved by the court and will have an opportunity to review the trust fund before an effective date is established. Once the effective date is established, the governor will have 60 days to apply to become a beneficiary of the mitigation trust and to also select a lead agency to administer the funds. Governor Bryant has indicated that he will select MDEQ as the lead agency. This briefing was for informational purposes only, requiring no action by the Commission.

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>
Lee County BOS	\$14,090.00
Kemper County BOS	\$9,014.00
City of Natchez	\$25,000.00
3 Rivers SWM Authority	\$75,000.00
Tippah County BOS	\$9,802.00
Tishomingo County BOS	\$9,539.00
Benton County BOS	\$7,176.00
City of Cleveland	\$23,000.00
City of Hattiesburg	\$75,000.00
Harrison County BOS	\$70,000.00
Coahoma County BOS	\$7,877.00
Sharkey County BOS	\$8,054.00
Town of Woodville	\$15,000.00
Walthall County BOS	\$10,065.00

Jeff Davis County BOS	\$9,277.00
Scott County BOS	\$10,940.00
Rankin County BOS	\$23,805.00
Golden Tri SWM Auth	\$60,000.00
DeSoto County BOS	\$75,000.00
Warren County BOS	\$11,290.00
Harrison County BOS	\$16,628.00
Hinds County BOS	\$45,000.00
Webster County BOS	\$7,527.00
Pearl River County BOS	\$16,803.00
Newton County	\$10,415.00
Union County	\$10,152.00
Tunica	\$8,402.00
Marion County	\$11,377.00
Wilkinson County BOS	\$7,264.00
Yalobusha County	\$7,877.00
Attala County BOS	\$10,415.00
Marshall County BOS	\$12,953.00
Tate County BOS	\$10,152.00

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

<u>County/ Municipality</u>	<u>Grant Amount</u>
Golden Triangle SWMA	\$90,000
Harrison County Utility Authority	\$51,500
Wayne County BOS	\$25,000
City of Jackson	\$50,000
Newton County	\$30,000
Warren County BOS	\$54,000
Grenada County BOS	\$20,000
Marion County BOS	\$36,000
Marshall County BOS	\$30,000
Sunflower County BOS	\$30,000

#### Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 332 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 163 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 32 certifications to those who install, alter, or remove underground storage tanks had been issued since the last report.

#### Wastewater Operator Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 162 wastewater operator certificates had been issued since the last report.

Administrative Orders

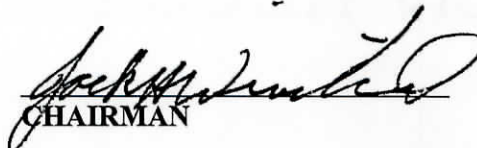
On previous authority delegated to the Executive Director, DEQ, the staff reported that 35 Administrative Orders, and 3 Amended Agreed Orders, had been issued since the Commission's last meeting. A list of these orders is made a part of these minutes and is filed in the Official Minutes File.

Setting of Meeting

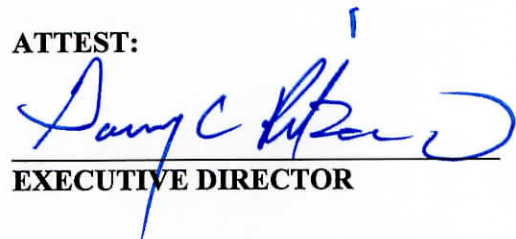
It was the decision of the Commission to meet next on Thursday, June 22, 2017, beginning at 9:00 a.m., in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi.

Adjournment

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

  
CHAIRMAN

ATTEST:

  
EXECUTIVE DIRECTOR