

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICIAL MINUTES  
NOVEMBER 8, 2018

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, November 8, 2018, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

John Dane III  
Patrick Johnson, Jr.  
Chat Phillips  
Jack Winstead, Chairman

Commissioners Brenda Lathan and Billy Van Devender were not present.

Others present were: Gary Rikard, Executive Director; James Matheny, Adrien Perkins, Lynn Chambers, Roy Furrh, staff of MDEQ; and other staff members and visitors whose names appear elsewhere in these minutes.

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

Notice of Meeting

The Commission was informed that the legal Notice of Meeting concerning the time, date, and place of this meeting had been posted publicly as required by law. The Notice of Meeting read as follows: "Please take note that the regularly scheduled meeting of the Mississippi Commission on Environmental Quality for November, 2018, will take place on Thursday, November 8, 2018. This meeting will be held in the Commission Hearing Room at the offices of the Mississippi Department of Environmental Quality at 515 East Amite Street, Jackson, Mississippi. As always, the public is invited to attend." This notice was posted in the lobby of the MDEQ offices in Jackson on October 1, 2018.

Approval of Minutes

On motion made by Mr. Phillips and seconded by Mr. Dane, the minutes of the August 23, 2018, meeting were approved and adopted as the Official Minutes.

Establishment of the Lignite Mining Fee for Liberty Fuels Company, LLC for the Liberty Mine in Kemper County for State Fiscal Year 2019;

Establishment of the Lignite Fee for the Mississippi Lignite Mining Company for the Red Hills Mine in Choctaw County for State Fiscal Year 2019

On behalf of MDEQ staff, Mr. James Matheny recommended the Liberty Fuels Company, LLC Lignite Mining Fee for the 2019 state fiscal year be set at \$125,000, which is the same as for state fiscal year 2018. Mr. Matheny also recommended that the Mississippi Lignite Mining Company Lignite Mining Fee for the 2019 state fiscal year be set at \$175,000, which is an increase of \$50,000 more than the fee for state fiscal year 2018. This fee increase is due to cover the additional costs associated with stream monitoring of Little Bywy Creek and Middle Bywy Creek. The increase is also necessary to cover the additional staff resources/costs associated with an application review related to a proposed project expansion. 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 Mr. Johnson and seconded by Mr. Dane, the Commission unanimously voted to set the Liberty Fuels Company, LLC Lignite Mining Fee for the 2019 state fiscal year at \$125,000 and set the Mississippi Lignite Mining Company Lignite Mining Fee for the 2019 state fiscal year at \$175,000. The Commission also authorized Orders setting these fees be executed by the Executive Director.



### 2018 Mississippi 303(d) List of Impaired Water Bodies

On behalf of MDEQ staff, Ms. Adrien Perkins provided a briefing to the Commission on the 2018 Mississippi Section 303(d) List of Impaired Water Bodies. Public notice of the draft 303(d) list began April 10<sup>th</sup> and ended May 15<sup>th</sup> with a public hearing. Two public comments were received and a responsiveness summary was prepared. EPA issued a letter of no comment on the draft list. Commission members were previously provided with a document package which included the final list, the transcript of the public hearing, the public notice and proof of publication, EPA's letter of no comment, the public comments, and the responsiveness summary. Ms. Perkins requested the Commission adopt the 2018 list and propose the list to EPA Region 4 for their final approval with an accompanying Order. Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Mr. Johnson, the Commission unanimously voted to adopt the 2018 303(d) list and propose the list to EPA Region 4 for their final approval with an accompanying Order. In response to a question raised by Mr. Phillips, Ms. Perkins stated the oldest 303(d) list of which she is aware is from 1996. Executive Director Gary Rikard informed the Commission Ms. Perkins was relocating to the State of Washington. Mr. Rikard wished Ms. Perkins well and congratulated her on a job well done.

### Commission Approval of Modified Brownfield Agreement

On behalf of MDEQ staff, Ms. Lynn Chambers stated the Commission approved Brownfield Agreement 5969 11 in May 2011, between the Commission and Delta Biofuels, Inc. for Delta Biofuels property located in Natchez, Mississippi. The original brownfield agreement required an environmental covenant to be placed on portions of the property due to Volatile Organic Compounds in the groundwater and soils at levels in excess of the Target Remediation Goals. The agreement also required long term groundwater monitoring with implementation of additional corrective action, if necessary. Upon recent review of the brownfield agreement order, it was determined further clarification of the original order is necessary to specify the boundaries of the environmental covenant. Ms. Chambers recommended that the Commission approve the modified Brownfield Agreement between the Commission and World Asset Management, the new property owner, regarding the environmental covenant for the 13.518 acres at L.E. Barry Road in Natchez, Mississippi. Staff of the MCEQ has 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 deliberation, on motion made by Mr. Dane and seconded by Mr. Phillips, the Commission unanimously voted to approve the modified Brownfield Agreement between the Commission and World Asset Management regarding the environmental covenant for the 13.518 acres at L.E. Barry Road in Natchez, Mississippi.

### 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 have that been awarded to local governments:

| <u>County/Municipality</u> | <u>Grant Amount</u> |
|----------------------------|---------------------|
| Noxubee County BOS         | \$19,758.00         |
| Quitman County BOS         | \$17,089.00         |
| City of Fulton             | \$15,000.00         |
| Monroe County BOS          | \$14,362.00         |
| Marion County BOS          | \$12,966.00         |
| City of Pontotoc           | \$15,000.00         |

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> |
|----------------------------|---------------------|
| Warren County BOS          | \$54,000.00         |
| Clarke County BOS          | \$15,000.00         |
| Washington County BOS      | \$90,000.00         |
| Tate County BOS            | \$40,000.00         |



|                      |             |
|----------------------|-------------|
| Smith County BOS     | \$30,000.00 |
| Marshall County BOS  | \$30,000.00 |
| Alcorn County BOS    | \$20,000.00 |
| Kemper County BOS    | \$20,000.00 |
| Amite County BOS     | \$30,000.00 |
| Yalobusha County BOS | \$66,808.00 |

#### Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 180 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 114 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 24 that 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 112 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 22 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.

#### Other Business

Mr. Roy Furrh provided the Commission with an update on the Illinois Central train derailment in Minter City, MS, in which pollutants were released on farmland owned by the Melton family. The Meltons have requested an evidentiary hearing, before the Commission, related to the corrective action plan which has been submitted by the railroad and approved by MDEQ. As part of the corrective action plan, a report needs to be submitted specifying the areas of soil and ground water which will be tested for contamination. MDEQ staff is in the process of reviewing and approving this report. The plan also includes two rounds of sampling to determine the extent of the contamination. Therefore, the evidentiary hearing will probably occur late next year so that Illinois Central can move forward with the testing and sampling process.

Executive Director, Gary Rikard advised the Commission that Alice Perry has returned to work for MDEQ part time on contract. Mr. Rikard and Ms. Perry are in the processing of scheduling meetings with legislators prior to the start of the 2019 legislative session.

Mr. Rikard also advised the Commission that Kay Whittington and he recently met with Yazoo Management District to discuss a delegation agreement for YMD to receive, investigate, and make recommendations regarding applications for MRVA agriculture and wildlife water use permits. It is the same type of delegation agreement MDEQ signs with EPA relative to federal programs. In addition, Mr. Rikard stated he was meeting with Delta Council on Monday to discuss applications for water withdrawal

permits. MDEQ wants to make sure the information in the application is accurate for modeling purposes.

Finally, Mr. Rikard informed the Commission that an ex parte order has been drafted against an automobile parts manufacturer, Parker Hannifin, in Booneville, MS. The plant closed in 2008 and garnered MDEQ's attention because they began installing monitoring wells and doing clean-up without MDEQ's knowledge. It appears Parker Hannifin has some off site contamination and they are refusing to conduct the recommended testing necessary to ensure human health and safety. Mr. Rikard stated he will probably execute this order. If the order is contested, this matter may come before the Commission at a later date.

Setting of Meeting

It was the decision of the Commission to announce the December meeting date in the near future.

Adjournment

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

  
CHAIRMAN

ATTEST:

  
EXECUTIVE DIRECTOR

EMERGENCY SERVICES CLEAN UP

To: Complete Environmental  
Amount: \$13,985.17 Date of Response: 09/08/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a diesel/processed meat spill in Lamar County.

To: Enhanced Environmental & Emergency Services  
Amount: \$1,721.53 Date of Response: 07/23/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a diesel spill in Covich County.

To: Enhanced Environmental & Emergency Services  
Amount: \$4,065.34 Date of Response: 08/04/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a gasoline spill in Harrison County.

To: Enhanced Environmental & Emergency Services  
Amount: \$3,928.68 Date of Response: 07/06/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a gasoline spill in Harrison County.

To: Enhanced Environmental & Emergency Services  
Amount: \$2,450.97 Date of Response: 08/29/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up an engine oil/diesel spill in Pike County.

To: Enhanced Environmental & Emergency Services  
Amount: \$2,829.36 Date of Response: 07/21/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a gasoline spill in Hinds County.

To: Enhanced Environmental & Emergency Services  
Amount: \$3,417.98 Date of Response: 08/07/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a diesel/motor oil spill in Covich County.

To: Enhanced Environmental & Emergency Services  
Amount: \$1,192.14 Date of Response: 08/15/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up abandoned cylinders in Jackson County.

To: Enhanced Environmental & Emergency Services  
Amount: \$7,781.34 Date of Response: 06/26/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up oil from a dump truck wreck in George County.

To: Enhanced Environmental & Emergency Services  
Amount: \$2,837.50 Date of Response: 07/29/18  
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help clean up a petroleum products spill in Jackson County.



ADMINISTRATIVE ORDERS

|   | <u>Respondent</u>   | <u>Order No.</u>   | <u>Summary</u>  |
|---|---|--|---|
| 1 | Murphy Oil USA, Inc.<br>El Dorado, AR   | Order No. 6876 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$6,500.00 within forty-five (45) days of this Agreed Order.   | Respondent owns/or operates several UST's in Mississippi. Facilities are listed in Section I and violations are listed in Section 2 of this Agreed Order.   |
| 2 | Kevin Lizana<br>d/b/a Lizana Pump and Well Service<br>Harrison Co., MS  | Order No. 6877 18<br>Respondent shall immediately cease and desist from engaging in the business of constructing or repairing wells; and Respondent shall immediately cease and desist from advertising and holding himself out to be a water well driller or pump installer/servicer. | Respondent was in violation of operating as a water well/pump contractor in the state of Mississippi without the required license.  |
| 3 | C F Gollott and Son Seafood, Inc.<br>Harrison Co., MS   | Order No. 6878 18  | The Commission issued Order No. 6878 18 on August 23, 2018, to memorialize its decision made at the Commission meeting on July 26, 2018. After hearing from attorneys for MDEQ and C.F. Gollott and Son Seafood ("Gollott") as well as Dale Gollott, Vice President of Gollott, and considering documents submitted by the parties, the members of the Commission who attended the July 26 meeting, voted unanimously to deny Gollott's request for a Commission hearing; to deny Gollott's requested stay and revocation of Agreed Order No. 6553 15 issued July 16, 2015, and Amendment to Agreed Order No. 6553 15 issued January 3, 2017; and to deny Gollott's request for the Commission to petition EPA and challenge the promulgation of the new source performance standards for seafood processors which Gollott alleged were not properly promulgated in 1974. |
| 4 | City of Vicksburg<br>Warren Co., MS   | Order No. 6879 18<br>Respondent agrees to the remediation requirements/obligations to be conducted in this Brownfield Agreement Order.   | Respondent and the MCEQ agree, through this Brownfield Agreement, that the contaminated Site will be in compliance with all applicable State and Federal laws and standards, once complete.   |
| 5 | Matter of the Adoption of Amendments to Title 11 of the Mississippi Administrative Code, Part 5, Chapter 2, Entitled "Underground Storage Tanks Regulations Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)" | Order No. 6880 18  | This order confirms the adoption of the proposed amendments for MDEQ's "Underground Storage Tanks Regulations Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)".  |
| 6 | Matter of the Adoption of Amendments to Title 11 of the Mississippi Administrative Code, Part 5, Chapter 3, Entitled "Underground Storage Tanks Regulations for the Certification of Persons Who Install, Alter, Test, and Permanently Close Underground Storage Tanks"         | Order No. 6881 18  | This order confirms the adoption of the proposed amendments for MDEQ's "Underground Storage Tanks Regulations for the Certification of Persons Who Install, Alter, Test, and Permanently Close Underground Storage Tanks".  |

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| 7  | B and B Electrical and Utility Contractors, Inc.<br>Rankin Co., MS                                  | Order No. 6882 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$9,375.00 within forty-five (45) days of this Agreed Order.  | Respondent was in violation of NPDES Permit No. MS0060038   |
| 8  | Dennis Driver<br>d/b/a Service Pros Inc.<br>DeSoto Co., MS  | Order No. 6883 18<br>Respondent shall immediately cease and desist from engaging in the business of constructing or repairing wells; and Respondent shall immediately cease and desist from advertising and holding himself out to be a water well driller or pump installer/servicer.  | Respondent was in violation of operating as a water well/pump contractor in the state of Mississippi without the required license.  |
| 9  | Orchard Farms Joint Venture<br>Dallas, TX   | Order No. 6884 18<br>Respondent agrees to comply with special terms and conditions of permit/certificate listed in Section I-A&B of this Agreed Order.  | Respondent failed to comply with special terms and conditions of Groundwater Withdrawal Permits/Certificates of Coverage MS-GW-46120.   |
| 10 | Associated Wholesale Grocers, Inc.<br>DeSoto, MS  | Order No. 6885 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$7,000.00 within forty-five (45) days of this Agreed Order.  | Respondent was in violation of NPDES Pretreatment Permit No. MSP091043.   |
| 11 | Roura Acquisition, Inc.<br>Marshall Co., MS   | Order No. 6886 18<br>Respondent agrees to comply with the terms and conditions listed under Section #2.   | Respondent was in violation of Title V Permit No. 1780-00030.   |
| 12 | M and N Excavators, Inc.  | Order No. 6887 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$15,250.00 within forty-five (45) days of this Agreed Order.   | Violations are listed in Section 1 of this Agreed Order.  |
| 13 | Adoption of the Water Pollution Control Revolving Loan Fund Program Final FY 2018 Intended Use Plan | Order No. 6888 18   | This order confirms the Adoption of the Water Pollution Control Revolving Loan Fund Program Final FY 2018 Intended Use Plan, which will supersede and replace the previous, and now expired, Final FY 2017 Intended Use Plan, Codified at 11 Miss. Admin. Code Part 6, Chapter 8. |
| 14 | Torrey Wood & Son, Inc.<br>Washington Co., MS   | Order No. 6889 18<br>Respondent agrees to comply with special terms and conditions of permit/certificate listed in Section I-A&B of this Agreed Order.  | Respondent failed to comply with special terms and conditions of Groundwater Withdrawal Permits/Certificates of Coverage MS-GW-45700.   |
| 15 | Floyd Justin Babin, Jr.<br>Harrison Co., MS   | Order No. 6890 18<br>Respondent shall immediately cease and desist from engaging in the business of constructing or repairing wells; and Respondent shall immediately cease and desist from advertising and holding himself out to be a water well driller or pump installer/servicer.  | Respondent was in violation of operating as a water well/pump contractor in the state of Mississippi without the required license.  |
| 16 | Davis Research, Inc.  | Order No. 6891 18<br>Respondent shall immediately cease and desist collecting, analyzing, and/or reporting samples for any person or facility in Mississippi where such samples are required by any permit, regulation, or law administered by MDEQ until such time as Davis Research is notified by MDEQ that it has satisfactorily complied with the terms and conditions listed in Section 4 of this Agreed Order. | Violations are listed in Section 2 of this Agreed Order.  |



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| 17 | Kelly Builders, Inc.<br>Lauderdale Co., MS         | Order No. 6892 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$14,500.00 within forty-five (45) days of this Agreed Order.   | Violations are listed in Section 1 of this Agreed Order.               |
| 18 | Town of Woodville<br>Wilkinson Co., MS             | Order No. 6893 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$475.00 within forty-five (45) days of this Agreed Order.  | Respondent was in violation of NPDES Permit No. MS0054640.             |
| 19 | Premium Waters, Inc.<br>Hinds Co., MS              | Order No. 6894 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$9,000.00 within forty-five (45) days of this Agreed Order.  | Respondent was in violation of NPDES Pretreatment Permit No. MSP092432 |
| 20 | AEI, LLC<br>Tate Co., MS                           | Order No. 6895 18<br>Until the Mississippi Environmental Quality Permit Board or its designee acts on the renewal application for the Respondent's Title V Operating Permit, Respondent shall comply with the Title V Operating Permit No. 2600-00026 issued to the Respondent on July 9, 2013. | Respondent was in violation of Title V Permit No. 2600-00026.          |
| 21 | Blue Mountain Production Company<br>Tippah Co., MS | Order No. 6896 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$44,875.00 within forty-five (45) days of this Agreed Order.   | Respondent was in violation of Title V Permit No. 2620-00003.          |
| 22 | Kim Lee<br>Pearl River Co., MS                     | Order No. 6897 18<br>Respondent agrees to pay MDEQ a penalty in the amount of \$15,750.00.00 within forty-five (45) days of this Agreed Order.  | Violations are listed in Section 1 of this Agreed Order.               |