

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
MAY 26, 2022

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, May 26, 2022, in-person in the Commission Hearing Room at the offices of the Mississippi Department of Environmental Quality, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m.

Commissioners present were: John Dane, III, Patrick Johnson, Jr., Chat Phillips, Billy Van Devender and Jack Winstead.

Commissioners Brenda Lathan and Jamie Martin were not present.

Others present were: Chris Wells, Executive Director; Melissa Fortenberry, Krista Caron, Charka Fair, Brad Ware, Thomas Wallace, 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 Vice-Chairman Johnson and after Mr. Winstead led the invocation, the following business was transacted:

Approval of Minutes

On motion made by Mr. Dane and seconded by Mr. Phillips, the minutes of the February 24, 2022, meeting were approved and adopted as the Official Minutes.

FY2023 Title V Program Fee Recommendation

Ms. Melissa Fortenberry stated a public hearing concerning the FY2023 Title V Program Fee was held on April 6, 2022, and no comments were received. On behalf of staff, Ms. Fortenberry recommended that the Commission set the fee at the proposed rate of \$46.00 per ton of regulated air pollutants, which is the same as the previous year's fee. Following staff presentation and after deliberation, on motion made by Mr. Winstead and seconded by Mr. Van Devender, the Commission unanimously voted to set the FY2023 Title V permit fee at \$46.00 per ton of regulated air pollutants, with a minimum fee of \$250. As a side note, Ms. Fortenberry informed the Commission that there has been a 63% reduction in emissions since the inception of the Title V program. The Commission further authorized that an Order setting this fee be executed by the Executive Director.

Commission Approval of Proposed Amendments to 11 Miss. Admin. Code Pt. 3, Ch. 1. Hazardous Waste Management Regulations

On behalf of staff, Ms. Krista Caron recommended the Commission adopt proposed amendments to the Mississippi Hazardous Waste Management Regulations, 11 Miss. Admin. Code Pt. 3, Ch. 1. These revisions were proposed to incorporate ten Federal rules, previously adopted by the U.S. EPA, that are necessary for the re-authorization of MDEQ's Hazardous Waste Management Program by EPA. Adoption of these regulations will maintain consistency between the Mississippi Hazardous Waste Regulations and the U.S. EPA Hazardous Waste Regulations as required by 40 CFR 271.4 and MS Code 17-17-27. Summaries of the rules proposed for incorporation were previously forwarded to the Commission by email on March 17, 2022, and Ms. Caron briefly described each rule for the Commission. MDEQ staff conducted a public comment process and held a public hearing on the proposed amendments on March 10, 2022, and no adverse public comments were received on the proposed revisions. Executive Director Chris Wells stated that state law must be as stringent as federal law to maintain our delegation, so these amendments are bringing up our state regulations to be consistent with federal regulations. Following staff presentation and after deliberation, on motion made by Mr. Van Devender and seconded by Mr. Dane, the Commission unanimously voted to adopt the recommended proposed amendments to 11 Miss. Admin. Code Pt. 3, Ch. 1, Mississippi Hazardous Waste Management Regulations.

Briefing on the Mississippi Groundwater Protection Trust Fund highlighting the Harbor Walk Development Cleanup at the Ross Barnett Reservoir

Ms. Charka Fair provided a briefing to the Commission on the Mississippi Groundwater Protection Trust Fund managed by MDEQ as part of the Mississippi Underground Storage Tank Program. This briefing highlighted the recent Harbor Walk Development cleanup at the Ross Barnett Reservoir and was for informational purposes only requiring no action by the Commission. There was some brief discussion among the Commission and Mr. Chris Wells stated the Harbor Walk Development cleanup was a good example of private funding and public funding, through the trust fund, coming together resulting in a successful project.

Commission Approval of Environmental Response Action Contractor (ERAC)

Ms. Charka Fair stated that MDEQ staff reviewed applications from two (2) consulting firms requesting to be listed as an Environmental Response Action Contractor (ERAC) for performing work reimbursable through

the Mississippi Groundwater Protection Trust Fund and determined the applications to be complete and acceptable. Staff recommended that the Commission approve the following firms as ERAC firms:

J5 GBL, LLC
605 2nd Avenue North
Columbus, MS 39701

Advanced Environmental Technologies, LLC
4864 Corlett Street
Tallahassee, FL 32303

Following staff presentation and after deliberation, on motion made by Mr. Phillips and seconded by Mr. Dane, the Commission unanimously voted to approve J5 GBL, LLC, and Advanced Environmental Technologies, LLC, as ERAC firms.

Commission Approval of Updated Environmental Response Action Contractor (ERAC) List

Ms. Charka Fair stated that MDEQ staff reviewed all renewal applications, professional insurance policies, updated lists of registered professional engineers and/or geologists, and associated documentation for the existing ERACS requesting to remain on the Mississippi Department of Environmental Quality Underground Storage Tank Branch Environmental Response Action Contractors (ERACs) list. Staff determined that these ERACS met all regulatory requirements for such listing and recommended the Commission approve the Mississippi Department of Environmental Quality Underground Storage Tank Branch Environmental Response Action Contractors (ERACs) list, which was previously sent to them for review. In response to a question by Mr. Phillips, Ms. Fair stated that tank owners can hire the ERAC of their choice, even if they are out of state, as long as they meet the regulatory requirements and have been approved by the Commission. Following staff presentation and after deliberation, on motion made by Mr. Dane and seconded by Mr. Van Devender, the Commission unanimously voted to approve the Mississippi Department of Environmental Quality Underground Storage Tank Branch Environmental Response Action Contractors (ERACs) list as recommended by MDEQ staff.

SFY 2023 Underground Storage Tank Fee Recommendation

Mr. Brad Ware stated in December 2021, staff provided the Commission with the draft Underground Storage Tank (UST) Program Resource Needs and Fee Recommendation for State Fiscal Year 2023 prepared by the Mississippi UST Advisory Council. The resource needs analysis indicated the SFY 2023 UST fee would either need to be raised to \$200/tank to address program costs or an alternative funding source would be necessary to meet program needs. The Mississippi UST Advisory Council recommended maintaining the SFY 2023 fee at the previous year's rate of \$150/tank and pursuing legislation for an alternative funding source. In January 2022, the Mississippi UST Advisory Council in conjunction with the Mississippi Petroleum Marketers and Convenience Store Association supported the introduction and passage of Senate Bill 2158 in the 2022 Legislative Session. This bill allows the Commission to expend or utilize monies up to One Million Dollars (\$1,000,000.00) annually from the Mississippi Groundwater Protection Trust Fund by an annual appropriation approved by the Legislature to supplement all reasonable direct and indirect costs associated with the development and administration of the Underground Storage Tank (UST) Program if the annual tank regulatory fee in Section 49-17-421 does not adequately cover the costs associated with the UST Act of 1988. The Mississippi Legislature 2022 Regular Session Senate Bill 2158 passed through both the House of Representatives and the Senate and was signed by the Governor on April 19, 2022. A public comment period concerning the FY2023 Underground Storage Tank (UST) Fee was held between March 1 through April 1, 2022, with the public notice information printed in statewide newspapers and distributed to the Mississippi Petroleum Marketers and Convenience Store Association. No comments were received. Considering the passage of Mississippi Legislature 2022 Regular Session Senate Bill 2158, staff recommended that the Commission set the fee at the proposed FY 2023 UST rate of \$150.00 per UST. Mr. Chris Wells briefly explained how the UST Trust fund works, stating the trust is funded by a percentage of the gas tax and the fee is paid by the tank owners as part of the regulatory program. Following staff presentation and after deliberation, on motion made by Mr. Winstead and seconded by Mr. Dane, the Commission unanimously voted to set the fee at the proposed FY 2023 UST rate of \$150.00 per UST.

Commission Approval of Brownfield Agreement

Mr. Thomas Wallace informed the Commission that last December, MDEQ applied for additional funding under EPA's 104K CERCLA Brownfield Grant Funding Program. These are competitive grants and MDEQ applied for both an assessment grant and a revolving loan fund grant. Staff was recently notified that MDEQ will receive both grants and that the funds should start arriving in October. These funds are to be used specifically for Brownfield sites. Mr. Chris Wells stated that the grant money consists exclusively of federal funds so there is no state match requirement. Mr. Wallace also informed the Commission that MDEQ will apply for funds under EPA's 128A CERCLA Brownfield Grant Funding Program. These funds will represent most of the state's funding and will help maintain the Brownfield program.

On behalf of MDEQ staff, Mr. Wallace recommended that the Commission approve the Brownfield Agreement between the Commission and Hodges Redevelopment GWD, LLC regarding the remediation of brownfield property located at 900 West Park Avenue in Greenwood, MS. The administrative record for this environmental response project is referred to as the former Three Rivers Inn site – Agency Interest number 81377. Site inspections and assessments have determined that buildings onsite have asbestos in excess of the Environmental Protection Agency's 1% Asbestos Containing Materials (ACM) threshold. Therefore, abatement of the Brownfield Agreement Site is necessary prior to demolition of the buildings. The proposed use of the Site after completion of all remediation will be commercial in nature, more specifically, a restaurant. Staff of 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. In response to a question by Mr. Van Devender, Mr. Wallace advised that under the Brownfield agreement, the developer is fronting the funds for the remediation project. Following staff presentation and after deliberation, on motion made by Mr. Dane and seconded by Mr. Van Devender, the Commission unanimously voted to approve the Brownfield Agreement between the Commission and Hodges Redevelopment GWD, LLC regarding the remediation of brownfield property located at 900 West Park Avenue in Greenwood, MS.

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 385 asbestos certifications had been issued since the last report.

Lead Paint Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 202 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 11 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 51 wastewater operator certificates had been issued since the last report.

Emergency Clean-Up Expenses

On previous authority delegated to the MDEQ 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.

Administrative Orders

On previous authority delegated to the MDEQ Executive Director, the staff reported that 13 Administrative Orders and 1 Amended Order have been issued since the Commission's meeting on February 24, 2022. A list of these orders is made a part of these minutes and is filed in the Official Minutes File.

Other Business

Under Senate Bill 2822 (Regular Session 2022), MDEQ was given responsibility to manage the Mississippi Municipality and County Water Infrastructure Grant Program (funded by State Coronavirus recovery funds provided through the federal American Rescue Plan Act (ARPA)). Executive Director, Chris Wells provided a status update to the Commission and stated that the funds from this grant program will go toward sewer, drinking water and storm water infrastructure projects for municipalities, counties, and certain public utilities. MDEQ has hired contractors to assist the agency in managing the program. MDEQ staff and contractors are currently working on developing this program, including a ranking system for applications and regulations that will be in place by July 1, 2022. The goal is to begin receiving applications in September or October of this year. Before the project application portal goes live, there will be opportunities to review the application packet and ranking system. Webinars and other outreach efforts will be conducted to help interested parties prepare for the submission process. Following discussions between the Commission and Mr. Wells, on motion made by Mr. Dane and seconded by Mr. Van Devender, the Commission unanimously voted to authorize MDEQ Executive Director Chris Wells to establish the necessary ARPA rules and regulations without further approval from the Commission.

Setting of Meeting

The Commission decided to meet next on June 23, 2022, beginning at 9:00 a.m.

Adjournment

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


Bruce H. Latimer

CHAIRMAN

ATTEST:


John C. Gross
EXECUTIVE DIRECTOR

EMERGENCY CLEAN-UP EXPENSES

To: E3
Amount: \$1,478.42 **Date of Response:** 01/20/2022
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up abandoned drums in Harrison County.

To: E3
Amount: \$6,393.50 **Date of Response:** 12/27/2021
For: Costs associated with supervision, labor, equipment and materials to respond to and clean up an unknown chemical found in a ditch in Greene County.

To: E3
Amount: \$2,200.94 **Date of Response:** 12/18/2021
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a POL discharge in Harrison County.

ADMINISTRATIVE ORDERS

	<u>Respondent</u>	<u>Order No.</u>	<u>Summary</u>
1	Cherokee Insurance Company Warren, MI	Order No. 7177 22 On August 1, 2021, an eighteen-wheel diesel truck accident occurred in the vicinity of Pearl River County, Mississippi. Danny Herman Trucking, the owner of the truck, was insured by Cherokee Insurance Company. Joel Whitsell was the operator of the truck at the time of the accident. As a result of the accident, there was a release of petroleum, oil, and lubricant into the environment. MDEQ responded and contracted with a Pollution Response Contractor, Enhanced Environmental & Emergency Services ("E3 Environmental"), to contain, clean up, remove the contaminant from the environment, and to properly dispose of these pollutants. The cost of such cleanup was \$2,649.08.	Cherokee Insurance Company agrees to pay \$2,649.08 to MDEQ in reimbursement for the cost of remedial and cleanup action in response to the eighteen-wheel diesel truck accident of August 1, 2021. MDEQ agrees that this payment shall constitute a full and complete settlement of Respondent's liability for the payment of these costs subject to the discovery of any related contamination in the future.
2	Kurtex Logistics, Inc. Aurora, IL	Order No. 7178 22 On September 7, 2021, Respondent's 53' cargo trailer was involved in a fire on Interstate 10 West near Mile Marker 20 in Harrison County, Mississippi. As a result of the accident, there was a release of pollution into the environment. MDEQ responded and contracted with a Pollution Response Contractor, Enhanced Environmental & Emergency Services ("E3 Environmental"), to contain, clean up, remove the contaminant from the environment, and to properly dispose of these pollutants. The cost of such cleanup was \$11,549.91.	Respondent agrees to pay twelve (12) consecutive monthly payments to MDEQ, with the first eleven monthly payments being \$962.49, due beginning March 15, 2022, and the twelfth/last monthly payment being \$962.52 due on February 15, 2023, with each payment due on the fifteenth of each month, until the full amount due has been paid in reimbursement for the cost of remedial and cleanup action in response to the accident. MDEQ agrees that these payments shall constitute a full and complete settlement of Respondent's liability for the payment of all costs of remedial and cleanup action which have been incurred in connection with the described accident of September 7, 2021.
3	Matter of the Adoption of Amendments to Title 11 of the Mississippi Administrative Code, Part 2, Chapter 6, Entitled "Mississippi Commission on Environmental Quality, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act"	Order No. 7179 22	This order confirms the adoption of the proposed amendments for MCEQ's "Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act"
4	S & S Builders of MS, Inc. Rankin Co., MS	Order No. 7180 22 Respondent agrees to pay MDEQ a penalty in the amount of \$6,000.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of MS Code Section 49-17-29 (2) (b) regarding waters of the state.
5	DeLisle Dirt, LLC Harrison Co., MS	Order No. 7181 22 Respondent agrees to pay MDEQ a penalty in the amount of \$2,000.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of MS Code Section 49-17-29 (2) (b) regarding waters of the state.

6	The Refuge of Madison Madison Co., MS	Order No. 7182 22 Respondent agrees to pay MDEQ a penalty in the amount of \$5,775.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of MS Code Section 49-17-29 (2) (b) regarding waters of the state.
7	Matter of the Adoption of Amendments to Title 11 of the Mississippi Administrative Code, Part 6, Chapter 9	Order No. 7183 22	This order memorializes the Commission's adoption of the proposed amendments to MDEQ's "Mississippi 2022 Section 303(d) List of Impaired Water Bodies", which is codified at 11 Miss. Admin. Code Pt. 6, Ch. 9.
8	Pine Belt Regional Solid Waste Management Authority Perry Co., MS	Order No. 7184 22	This order approves a modification to the Authority's Regional Solid Waste Management Plan to recognize the future Phase III expansion area of the Authority-owned Pine Belt Regional Landfill. The modification to the plan will allow the Authority to apply for the environmental permits to develop an additional 72.28 acres of disposal area increasing the total allowable approved disposal acreage to an area not to exceed 178.91 acres.
9	Signify North American Corporation Lee Co., MS	Order no. 7185 22 Respondent agrees to comply with the requirements/obligations listed under #3 of this Agreed Order.	Signify North America Corporation, desires to submit and MDEQ accepts the Site for participation in the Uncontrolled Voluntary Evaluation Program.
10	Leflore County Board of Supervisors	Order No. 7186 22 Respondent agrees to pay MDEQ a penalty in the amount of \$38,346.00 within forty-five (45) days of this Agreed Order and implement corrective actions at the facility.	Violations are listed under Section I of this Agreed Order.
11	VLP, LLC Hinds Co., MS	Order No. 7187 22 Respondent agrees to comply with the requirements/obligations listed under #6 (Payment Terms and Conditions) of this Agreed Order.	VLP, LLC desires to submit and MDEQ accepts the site for participation in the Brownfields Voluntary Cleanup and Redevelopment Program.
12	AEI, LLC Tate Co., MS	Order No. 7188 22 Respondent agrees to pay MDEQ a penalty in the amount of \$19,875.00.00 within forty-five (45) days of this Agreed Order.	Violations are listed under Section #1 of this Agreed Order.
13	Winona Country Club Montgomery Co., MS	Order No. 7189 22 Respondent agrees with the terms and conditions listed in Section 5 of this Agreed Order.	Respondent's dam (Dam Inventory No. MS02160) has been declared a High Hazard dam – Respondent must comply with the terms and conditions listed in Section #5 of this Agreed Order.

Amended Orders

1	Noxubee County Producers Inc., Superior Fish Products	Amended Agreed Order No. 6932 18	Respondent agrees to comply with the amended requirements listed in Section #1 of this Agreed Order Amendment.
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