

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
APRIL 27, 2023

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, April 27, 2023, 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., Brenda Lathan, Jamie Planck Martin McRee, Billy Van Devender and Jack Winstead.

Commissioner Chat Phillips was not present.

Others present were: Chris Wells, Executive Director, Chris Sanders, Thomas Wallace, Scott Johnson, Mike Freiman, Tony Caldwell, 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 Lathan and after Mr. Van Devender led the invocation, the following business was transacted:

Approval of Minutes

On motion made by Mr. Johnson and seconded by Mr. Dane, the minutes of the February 23, 2023, meeting were approved and adopted as the Official Minutes.

FY2024 Title V Air Program Fee Recommendation

Mr. Chris Sanders stated a public hearing concerning the FY2024 Title V Program Fee was held on April 12, 2023, and that no comments were received during the hearing or the 30-day comment period. The Title V Advisory Council recommended that the emissions-based portion of the Title V fee be set at \$37 per ton of regulated air pollutants, with no individual pollutant emissions cap, and a minimum assessed to each affected facility based on a tiered structure. It was also recommended that the complexity-portion of the fee also be based on a tiered structure and that no maximum fee per facility be established. The Title V Advisory Council believes this recommended fee schedule, when combined with the estimated SFY 2023 fund balance, will adequately fund the Title V program in SFY 2024. On behalf of staff, Mr. Sanders recommended the Commission set the Title V fee as proposed by the Title V Advisory Council. Following staff presentation and after deliberation, on motion made by Mr. Dane and seconded by Mr. Winstead, the Commission unanimously voted to set the Title V fee at \$37 per ton of regulated air pollutants, with no individual pollutant emissions cap, a minimum assessed to each affected facility based on a tiered structure, the complexity-portion of the fee also be based on a tiered structure, and that no maximum fee per facility be established. The Commission further authorized that an Order setting these fees be executed by the Executive Director.

Commission Approval of Brownfield Agreement

Mr. Thomas Wallace stated the administrative record for this environmental response project is referred to as the Former Triplett-Day Drug Building located at 2429 14th Street Gulfport, Mississippi. The building was constructed in the 1960s and used as a drugstore and restaurant until its closing in March 2020. An asbestos inspection conducted in July 2022 identified approximately 3,400 sq ft of tile containing asbestos in amounts greater than 1%. The removal of regulated asbestos containing material (RACM) is considered remediation; therefore, the site qualified as a Brownfield Agreement Site. The proposed remedial actions consisted of removal and proper disposal of RACM from the facility by a qualified contractor. The proposed use of the Site after completion of all remediation will be 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. On behalf of staff, Mr. Wallace recommended that the Commission approve the Brownfield Agreement between the Commission and Iconic Buildings, LLC, regarding the remediation of the Former Triplett-Day brownfield site. Following staff presentation and after deliberation, on motion made by Ms. McRee and seconded by Mr. Dane, the Commission unanimously voted to approve the Brownfield Agreement between the Commission and Iconic Buildings, LLC, regarding the remediation of the Former Triplett-Day brownfield site.

Commission Approval of Brownfield Agreement Completion

Mr. Thomas Wallace stated the Commission approved Brownfield Agreement 7192-22 on May 25, 2022, between the Commission and Hodges Redevelopment GWD, LLC for the remediation of the former Three Rivers Inn located in Greenwood, Mississippi. The original brownfield agreement required the remediation of asbestos containing materials. The completed remedial activities have met the requirements of the MDEQ-approved Corrective Action Plan dated March 31, 2022. Hodges Redevelopment GWD, LLC requested the Commission make a determination as to the completion of the Brownfield Agreement. Staff of MDEQ evaluated the

corrective action plan report and the Brownfield Agreement and believes that the Site is in compliance with applicable State and Federal laws and standards and will be protective of public health and the environment. On behalf of staff, Mr. Wallace recommended the Commission determine that Brownfield Agreement 7192-22 is complete. Following staff presentation and after deliberation, on motion made by Mr. Van Devender and seconded by Mr. Johnson, the Commission unanimously voted to approve the completion of Brownfield Agreement 7192-22.

Designation of Hearing Officer-Mississippi Commission on Environmental Quality versus Ted Doukas, et al., Petition for an Evidentiary Hearing before the Mississippi Commission on Environmental Quality Regarding Remediation of Pollution at the Old Mid-Continent Terminal in Meridian, Lauderdale County, Mississippi and other future Commission evidentiary hearings

Mr. Scott Johnson stated that *Miss. Code Ann.* § 49-17-33 allows a hearing officer designated by the Commission to conduct an evidentiary hearing in the name of the Commission and provide the record of the hearing, findings of fact and a recommendation for the Commission’s review and consideration. If a Respondent requests a hearing before the full Commission, the evidentiary hearing will proceed directly to the Commission for consideration. On behalf of staff, Mr. Johnson recommended that the Commission designate Kristen Love, Special Assistant Attorney General, as the hearing officer in the *Doukas* case to handle pre-hearing and hearing matters on behalf of the Commission pursuant to *Miss. Code Ann.* § 49-17-33. Following staff presentation and after deliberation, on motion made by Mr. Winstead and seconded by Mr. Dane, the Commission unanimously voted to designate Kristen Love, Special Assistant Attorney General, as the hearing officer in the *Doukas* case to handle pre-hearing and hearing matters on behalf of the Commission pursuant to *Miss. Code Ann.* § 49-17-33. Mr. Johnson also recommended the Commission designate Kristen Love, Special Assistant Attorney General, to serve as a hearing officer in other future Commission evidentiary hearings pursuant to *Miss. Code Ann.* § 49-17-33. On motion made by Mr. Dane and seconded by Ms. McRee, the Commission unanimously voted to designate Kristen Love, Special Assistant Attorney General, to serve as the hearing officer in other future Commission evidentiary hearings pursuant to *Miss. Code Ann.* § 49-17-33.

Water Pollution Control Revolving Loan Fund (WPCRLF) Program Subsidy Affordability Criteria Revision

Mr. Mike Freiman briefed the Commission on planned revisions to the WPCRLF Program Subsidy Affordability Criteria for projects awarded in fiscal years FY-22 and forward. The WPCRLF Program is a very successful and popular program that provides affordable loans to public entities and these revisions are necessitated by the significant additional subsidy funding coming available from the federal Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law (IIJA/BIL). Also, these revisions address the IIJA/BIL-related requirement that states re-evaluate their CWSRF Affordability Criteria, and ensure a focus on “disadvantaged” communities, including those that may lie within larger non-disadvantaged service areas. As part of the application process to EPA, an intended use plan must be developed which details how available funds will be used within a given year. Staff plans to provide a public notice for a comment period and a public hearing and, at a later date, will bring the intended use plan before the Commission for final adoption and approval. In response to questions by Mr. Van Devender, Mr. Freiman stated he hoped to bring the intended use plan back before the Commission in June, and Mr. Tony Caldwell briefly discussed the application process. Executive Director Chris Wells stated that WPCRLF program information has been widely distributed to interested parties and that staff would send Mr. Van Devender a link to program information contained on the agency’s website. This briefing was for informational purposes only and did not require any action by the Commission.

Solid Waste Assistance Grants and Waste Tire Assistance Grants

On previous authority delegated to the MDEQ Executive Director, 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>
Adams County BOS	\$19,962.71
Benton County BOS	\$16,207.35
Claiborne County BOS	\$27,796.44
Jackson County BOS	\$48,819.71
Jefferson County BOS	\$15,614.40
Lamar County BOS	\$50,000.00
Lauderdale County BOS	\$38,770.42
Lawrence County BOS	\$18,974.46
Lincoln County BOS	\$30,635.85
Lowndes County BOS	\$31,624.10
Madison County BOS	\$31,821.73
Tippah County BOS	\$22,136.87
Wilkinson County BOS	\$16,405.00

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 371 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 111 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 13 certifications to those who install, alter, or remove underground storage tanks 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 10 Administrative Orders have been issued since the Commission's meeting on February 23, 2023. A list of these orders is made a part of these minutes and is filed in the Official Minutes File.

Other Business

Executive Director Chris Wells informed the Commission that it had recently been brought to the agency's attention that each Commissioner would need to have a signed Oath of Office on file with the Secretary of State, and that Ms. Jill Bailey would distribute the Oaths to each Commissioner for execution after the meeting. Mr. Wells also stated that during this legislative session, Governor Reeves signed a bill into law designating the Mississippi Opal as the state's official gemstone. In addition, the Mississippi Legislature added an additional \$41 million dollars to the Municipality County Water Infrastructure program which MDEQ has been tasked with managing and which will ensure funding of all eligible infrastructure projects submitted in Round 2 of the application process. Finally, Mr. Wells gave the Commission a brief update on MDEQ's budget and appropriations allocation for the next fiscal year.

Setting of Meeting

The Commission decided to meet next on May 25, 2023, beginning at 9:00 a.m.

Adjournment

There being no further business to come before the Commission, on motion made by Mr. Dane and seconded by Mr. Winstead, the meeting was adjourned.



CHAIRMAN

ATTEST:



EXECUTIVE DIRECTOR

EMERGENCY CLEAN-UP EXPENSES

To: E3
Amount: \$6,515.19 **Date of Response:** 02/06/2023
For: Cost associated with providing supervision, labor, equipment and materials to respond to and take samples of potential hazmat waste in Hinds County.

To: E3
Amount: \$3,370.21 **Date of Response:** 10/28/2022
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up an abandoned chicken parts spill in Smith County.

To: E3
Amount: \$1,801.00 **Date of Response:** 02/23/2022
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up an abandoned paint spill (in the water) in Harrison County.

ADMINISTRATIVE ORDERS

	<u>Respondent</u>	<u>Order No.</u>	<u>Summary</u>
1	M and M Processing, LLC Harrison Co., MS	Order No. 7235 23 Respondent agrees to pay MDEQ a penalty in the amount of \$3,750.00 within forty-five (45) days of this Agreed Order.	Respondent violated Miss. Code Ann. Section 49-17-29(2)(b) by discharging wastewater without a valid NPDES Permit.
2	Underground Storage Tank Annual Fee	Order No. 7236 22	This Order sets the annual underground storage tank (UST) regulatory fee from July 1, 2023, to June 30, 2024, in the amount of \$150.00 per UST available for use to cover the costs to administer the UST program.
3	Franklin Ready-Mix Concrete, Inc. Franklin Co., MS	Order No. 7237 23 Respondent agrees to pay MDEQ a penalty in the amount of \$1,000.00 within forty-five (45) days of this Agreed Order.	Respondent violated Miss Code Ann. Section 49-17-29(2)(a) by placing waste from a concrete truck into a storm drain.
4	Modification to the City of Jackson Solid Waste Management Plan	Order No. 7238 23	This order approves a modification to the City of Jackson Solid Waste Management Plan for the inclusion of a proposed waste tire processing facility at the request of MS Tire Recycling, L.L.C.
5	Thomas Keith Christopher Senior WW Treatment Certification Class IV Certificate No. WS4-00006568	Order No. 7239 23	Respondent violated the Mississippi Commission on Environmental Quality Regulations for the Certification of Municipal and Domestic Wastewater Facility Operators. Respondent was found to have submitted fraudulently altered documentation for review by the Department. Respondent agreed to surrender and relinquish Wastewater Treatment Certification No. WS4-00006568
6	BID Group Construction US, Inc. Amite Co., MS	Order No. 7240 23 Respondent agrees to pay MDEQ a penalty in the amount of \$10,500.00 within forty-five (45) days of this Agreed Order.	Respondent was the Prime Contractor for the Gloster Forest Products, LLC construction project in Amite County. Respondent violated Miss. Code Ann. Section 49-17-29(2)(b) by initiating unpermitted land disturbing activities. Respondent also violated Conditions of Mississippi's Large Construction Storm Water General NPDES Permit by failing to implement the site specific Stormwater Pollution Prevention Plan and by not meeting the Non-Numeric Limitation Requirements.

7	City of Canton Madison Co., MS	Order No. 7241 23 Respondent agrees to pay MDEQ in two installments. The first installment of \$29,000.00 shall be due within forty-five (45) days and the second installment of \$29,000.00 shall be due within ninety (90) days of this Agreed Order.	Violations are listed in Section I of this Agreed Order regarding the City of Canton Sanitary Landfill located at 303 Soldier Colony Road, Canton, MS in Madison County.
8	Calgon Carbon Corporation Hancock Co., MS	Order No. 7242 23 Respondent agrees to pay MDEQ a penalty in the amount of \$22,500.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Condition 3.B.7 of Title V Operating Permit No. 1000-00015 for exceeding the PM/PM ₁₀ /PM _{2.5} (filterable + condensable) limit of 4.0 pounds per hour (lbs/hr) (3-hour average) during a stack test of Emission Point AA-012 on June 8, 2022.
9	Lincoln Terminal Company, Inc. Adams Co., MS	Order No. 7243 23 Respondent agrees to pay MDEQ a penalty in the amount of \$25,000.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Condition 5.4 of Synthetic Minor Operating Permit No. 0040-00060 for failing to conduct a subsequent stack test on Emission Point AA-001 within twenty-five (25) months of the previous test.
10	Ardagh Metal Packaging USA Corp. Desoto Co., MS	Order No. 7244 23 Respondent agrees to pay MDEQ a penalty in the amount of \$22,500.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Condition 3.B.2 of Title V Operating Permit No. 0680-00016 for exceeding the Volatile Organic Compound (VOC) Rolling 12-Month Period limit of 249.0 tons per year (tpy) for the Entire Facility.