

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
OCTOBER 26, 2023

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, October 26, 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: Patrick Johnson, Jr., Brenda Lathan, Chat Phillips, Jamie Planek Martin McRee, Billy Van Devender, and Jack Winstead.

Commissioner John Dane, III was not present.

Others present were: Chris Wells, Executive Director, Thomas Wallace, 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 Johnson, and after Mr. Phillips led the invocation, the following business was transacted:

Approval of Minutes

On motion made by Mr. Winstead and seconded by Mr. Van Devender, the minutes of the August 24, 2023, meeting were approved and adopted as the Official Minutes.

Designation of Hearing Officer

The potential change in the designation of the hearing officer in the pending case of MCEQ v. Ted Doukas, W Lisa Court Corp., et al. was postponed and continued.

Amendments to 11 Miss. Admin. Code Part 3, Chapter 2 - Mississippi Commission on Environmental Quality Final Regulations Governing Brownfield Voluntary Cleanup and Redevelopment in Mississippi

On behalf of MDEQ staff, Mr. Thomas Wallace recommended that the Commission adopt amendments to the Commission's Brownfield regulations, 11 Mississippi Administrative Code, Part 3, Chapter 2, to add Subchapter 3: Brownfield Revolving Loan Program for the Mississippi Brownfield Program. These proposed amendments were previously sent to the Commission for review. A public hearing was held on September 15, along with a public comment period, and no official public comments were received. Mr. Wallace further indicated the amendments establish a Brownfield Revolving Loan Program to provide loans and/or subgrants to eligible applicants for the cleanup of brownfield sites. These amendments require an applicant to be a Commission approved Brownfield Party with an executed Brownfield Agreement prior to receiving a loan or subgrant. These amendments will align regulatory requirements of the Commission with requirements of the federal regulations and the terms and conditions of the EPA Revolving Loan Fund Award. Therefore, MDEQ staff recommended that the Commission adopt the regulation amendments. Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Ms. Lathan, the Commission unanimously voted to approve and adopt amendments to the Commission's Brownfield regulations, 11 Mississippi Administrative Code, Part 3, Chapter 2, to add Subchapter 3: Brownfield Revolving Loan Program for the Mississippi Brownfield Program.

Briefing on the Impacts of the United States Supreme Court's *Sackett* Opinion

Executive Director, Chris Wells, briefed the Commission on the status of MDEQ's efforts to address potential impacts of the United States Supreme Court's *Sackett* Opinion, which now restricts federal jurisdiction under The Clean Water Act. Under Mississippi law, MDEQ and the Commission are charged with interpreting and enforcing Mississippi's definition of "waters of the state" under the Air and Water Pollution Control Law. Mr. Wells stated that MDEQ was in the very early stages of drafting a regulatory definition of waters of the state, with the intent of exercising reasonable regulatory jurisdiction to protect the natural resources of the State of Mississippi. In mid-September, MDEQ held three focus group meetings to receive feedback from environmental and conservation groups, industry and consulting groups, as well as IHL's and sister state agencies. As MDEQ moves forward with this process, briefings and stakeholder meetings will continue. There were a couple of questions asked by the Commission which were addressed by Mr. Wells. Mr. Van Devender had to leave the meeting before adjournment during briefing of this agenda item. This briefing was for informational purposes only, requiring no 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>
Harrison County BOS	\$37,553.62
Monroe County BOS	\$28,461.69
Perry County BOS	\$16,491.00

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

<u>County/Municipality</u>	<u>Grant Amount</u>
City of Jackson	\$100,000.00
Jefferson Davis County BOS	\$25,000.00
Newton County BOS	\$30,000.00
Pearl River County BOS	\$40,000.00
Stone County BOS	\$45,000.00

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 313 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 110 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 9 certifications to those who install, alter, or remove underground storage tanks had been issued since the last report.

Administrative Orders

On previous authority delegated to the MDEQ Executive Director, the staff reported that 11 Administrative Orders have been issued since the Commission's meeting on August 24, 2023. A list of these orders is made a part of these minutes and is filed in the Official Minutes File.

Setting of Meeting

On motion made by Mr. Phillips and seconded by Mr. Winstead, the Commission decided to meet next on Wednesday, December 13, 2023, beginning at 9:00 a.m.

Adjournment

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


CHAIRMAN

ATTEST:


EXECUTIVE DIRECTOR

ADMINISTRATIVE ORDERS

	<u>Respondent</u>	<u>Order No.</u>	<u>Summary</u>
1	King Construction and Environmental Services LLC, King Pit and King Class 1 Rubbish Site Hancock Co., MS	Order No. 7270 23 Respondent agrees to pay MDEQ a penalty in the amount of \$83,000.00 and implement corrective actions listed in Section 2 of this Agreed Order and in the "Corrective Action Plan" dated April 2023.	Respondent was in violation of Solid Waste Management Permit No. SW0230020546 and the Mississippi Nonhazardous Solid Waste Management Regulations.
2	Liberty Fuels Company, L.L.C. Kemper Co., MS	Order No. 7271 23	This order sets the annual surface coal mining and reclamation permit fee for the Coal Mine in Kemper County, Permit No. MS-003, from July 1, 2023, to June 30, 2024.
3	Mississippi Lignite Mining Company Choctaw Co., MS	Order No. 7272 23	This order sets the annual surface coal mining and reclamation permit fee for the Coal Mine in Choctaw County, Permit No. MS-005, from July 1, 2023, to June 30, 2024.
4	Louis C. Sanders Bolivar Co., MS	Order No. 7273 23 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-40590, MS-GW-40873, MS-GW-40874; MS-GW-44279, MS-GW-46085, MS-GW-46822, MS-GW-48728 and MS-GW-50024
5	Adoption of the Water Pollution Control Revolving Loan Fund Program FY 2023 Intended Use Plan	Order No. 7274 23	This Order confirms the Adoption of the Water Pollution Control Revolving Loan Fund Program Final FY 2023 Intended Use Program, which will supersede and replace the previous, and now expired, Final FY 2022 Intended Use Plan, codified at 11 Miss. Admin. Code Part 6, Chapter 8.
6	Williams Equipment and Supply Company Norcross, GA	Order No. 7275 23 Respondent agrees to pay MDEQ a penalty in the amount of \$67,500.00. Additionally, Respondent agreed to cease the discharge permitted in NPDES Permit No. MS0060861.	Respondent violated Condition Nos. L-3 and T-16 of NPDES Permit No. MS0060861. An employee of the Respondent collected compliance monitoring samples from a groundwater well rather than the permitted outfall without authorization beginning sometime in 2018 and continuing until March 2022.

7	D.R. Horton, Inc. Harrison Co., MS	Order No. 7276 23 Respondent agrees to pay MDEQ a penalty in the amount of \$5,250.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Miss. Code Ann. § 49-17-29 92)(b) for failing to obtain coverage under the Large Construction Storm Water General NPDES Permit prior to commencement of construction activities.
8	Avon Engineered Fabrications, Inc. Pearl River Co., MS	Order No. 7277 23 Respondent agreed to comply with the terms and conditions of Title V Operating Permit No. 2180-00036 that was issued on September 21, 2016, until the Mississippi Environmental Quality Permit Board acts on the renewal application received on April 13, 2021.	Respondent was in violation of Miss. Code Ann. § 49-17-29(1)(b) for operating without a valid Title V Operating Permit.
9	Freedom's Image, LLC Rankin Co., MS	Order No. 7278 23 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 Miss. Code Ann. § 49-17-29(2)(b) for failing to obtain coverage under the Large Construction Storm Water General NPDES Permit prior to commencement of construction activities.
10	Gold Coast Commodities, Inc. Rankin Co., MS	Order No. 7279 23 Respondent agrees to submit a closure plan to MDEQ to permanently close its wastewater lagoon.	Respondent was in violation of Commission Order 7074-20 for failing to hire a wastewater operator or in the alternative, to remove the wastewater from its lagoon and for failing to notify MDEQ of inoperable aerators.
11	Homewood Planting Company Coahoma Co., MS	Order No. 7280 23 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 Permit/Certificate of Coverage MS-GW-04933.