

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
JANUARY 25, 2024

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, January 25, 2024, 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, Chat Phillips, Billy Van Devender, and Jack Winstead.

Commissioner Jamie Planck Martin McRee was not present.

Others present were: Chris Wells, Executive Director, Mike Freiman, Thomas Wallace, Charlie Bock, Scott Johnson, 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. Winstead led the invocation, the following business was transacted:

Approval of Minutes

On motion made by Mr. Winstead and Mr. Van Devender, and seconded by Mr. Dane, the minutes of the December 13, 2023, meeting were approved and adopted as the Official Minutes.

Commission Briefing on the Draft 303(d) List of Impaired Water Bodies

On behalf of MDEQ staff, Mr. Mike Freiman briefed the Commission on the 2024 DRAFT Mississippi Section 303(d) List of Impaired Water Bodies. The Clean Water Act requires that states submit an impaired waters list to EPA every two years. The DRAFT 2024 Mississippi 303(d) List was previously forwarded to the Commission for review. A public notice is scheduled to be issued in February and will run through March to receive public comments. Staff will return to the Commission following the public notice and required hearing to request the adoption of the Final 2024 303(d) list. This briefing was for informational purposes only, requiring no action by the Commission.

Commission Approval of Underground Storage Tank Fee for Fiscal Year 2025

Mr. Thomas Wallace stated the Underground Storage Tank (UST) Advisory Council and the staff of the MDEQ met on October 9, 2023, to discuss the current status of the UST program and for the UST Advisory Council to provide a recommended tank fee to the Commission for the Fiscal Year 2025. Fiscal Year 2023 expenditures and accomplishments and the expected expenditures for Fiscal Year 2025 on the UST program were provided in the UST report previously sent to the Commission for review. The Commission previously approved a \$150 tank fee for fiscal year 2024 at its meeting on December 12, 2022. On behalf of staff, Mr. Wallace recommended that the Commission approve the Advisory Council's recommended \$150 tank fee for fiscal year 2025. Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Mr. Dane, the Commission unanimously voted to approve the Advisory Council's recommended \$150 tank fee for fiscal year 2025.

Request from the Tallahatchie County Board of Supervisors to approve an amendment to the Tallahatchie County Solid Waste Management Plan

On behalf of staff, Mr. Charlie Bock stated the Tallahatchie County Board of Supervisors (County) requested approval of a proposed amendment to the Tallahatchie County Solid Waste Management Plan (Plan). The proposed amendment would recognize a new location for a proposed municipal solid waste transfer station to be owned and operated by the County. The County evaluated multiple alternative sites, but selected a location on Highway 35 west of Charleston after completing the local amendment process required by regulation. The County held a 30-day public comment period and a public hearing in September 6, 2022. Comments received were reviewed and addressed. Mr. Bock stated that MDEQ reviewed the content of Tallahatchie County's proposed solid waste management plan and found it consistent with state law and determined the plan contained the necessary components as required by state law and regulations. A couple of questions were asked by the Commission and answered by Mr. Bock. Several Tallahatchie County residents, Angela Rounds, Mary Ann Bramlett and Sylvester Douglas, attended the meeting and addressed the Commission, presenting their arguments against the proposed amendment to the Tallahatchie County Solid Waste Management plan. City of Charleston Mayor, Sedrick

Smith, Tommy Reynolds, Attorney for the Tallahatchie Board of Supervisors, Karl Grubb, Engineer for Tallahatchie County, and two members of the Tallahatchie Board of Supervisors, Eddie Meeks (District 5) and Marcus Echols (District 4), all addressed the Commission, presenting their arguments in support of the amendment to the Tallahatchie County Solid Waste plan. Executive Director, Chris Wells, confirmed with MDEQ's general counsel, Roy Furrh, that anyone aggrieved by the Commission's decision in this matter could request an evidentiary hearing in the presence of the Commission within 30 days of their decision. Following staff presentation and deliberation, on motion made by Mr. Winstead and seconded by Mr. Phillips, the Commission unanimously voted to approve the proposed amendment to the Tallahatchie County Solid Waste Management Plan.

Mississippi Commission on Environmental Quality v. Ted Doukas, 2 Lisa Court Corp., et al. - Designation of Hearing Officer

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. On behalf of staff, Mr. Scott Johnson proposed and recommended the Commission approve and designate Ellen O'Neal, former Special Assistant Attorney General (retired) to replace Special Assistant Attorney General Kristen Love as the hearing officer in the pending case of MCEQ v. Ted Doukas, 2 Lisa Court Corp., et al. to handle pre-hearing and hearing matters on behalf of the Commission pursuant to Miss. Code Ann. § 49-17-33. Ms. Love was previously designated as the hearing officer by the Commission in this matter on April 27, 2023. Citing lack of experience, Mr. Scott Johnson recommended Ms. O'Neal be approved and designated in Ms. Love's place. Josh Stover, attorney for Ted Doukas, addressed the Commission presenting his objections to the removal of Ms. Love as the hearing officer in this matter. Members of the Commission voiced some concern about substituting another hearing officer for Ms. Love and asked for an example of her lack of experience. Mr. Scott Johnson provided the Commission with an example at a Mississippi Environmental Quality Permit Board hearing involving allowing discussion of the ownership of property which had previously been determined by a Chancery Court; affirmed by the Mississippi Court of Appeals; and upheld when the Mississippi Supreme Court denied the writ of certiorari. Additionally, he read an email from Assistant Attorney General, Kim Turner, who reviewed the transcript of the recent hearing in this matter before the Permit Board and determined Ms. Love lacked the appropriate experience necessary to serve as a hearing officer in this case. Commission member Patrick Johnson asked Mr. Scott Johnson to comment on the Commission's statutory authority to replace hearing officers in matters before the Commission. Mr. Scott Johnson went over Miss. Code Ann. § 49-17-33 and stated the statute is clear about the Commission's authority to designate hearing officers and does not limit their authority to do so. Since the Commission previously thought Ms. Love was qualified to serve as a hearing officer in this matter, Commission member Patrick Johnson suggested pursuing alternative ways to improve the vetting process of potential hearing officers before recommending them to the Commission. Mr. Scott Johnson stated that the Attorney General's office for years did not provide hearing officers and MDEQ vetted; made recommendations for the Commission's approval; and paid hearing officers in the private sector for their services for the Commission and the Permit Board. Attorney General Fitch recently agreed to provide state agencies with available hearing officers when requested without charge and Mr. Wells stated that while there have not been a lot of issues with hearing officers in the past, there are still some processing issues to be worked out with the Attorney General's office due to the new arrangement. Following staff presentation and deliberation, on motion made by Mr. Dane and seconded by Mr. Winstead, the Commission unanimously voted to approve and designate Ellen O'Neal, former Special Assistant Attorney General (retired) to replace Special Assistant Attorney General Kristen Love as the hearing officer in the pending case of MCEQ v. Ted Doukas, 2 Lisa Court Corp., et al. pursuant to Miss. Code Ann. § 49-17-33.

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>
City of Natchez	\$25,000.00
City of Richland	\$32,279.90
Desoto County BOS	\$75,000.00

Golden Triangle SWMA	\$75,000.00
Hancock County BOS	\$38,538.31
Harrison County BOS	\$75,000.00
Jackson County BOS	\$75,000.00
Lamar County BOS	\$50,000.00
Tate County BOS	\$28,659.34
Three Rivers SWMA	\$75,000.00
Town of Monticello	\$25,000.00

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 Kosciusko	\$10,000.00

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 175 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 96 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 8 new and 21 renewed 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 9 new and 27 renewed 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 10 Agreed Orders and 2 Amended Agreed Orders have been issued since the Commission's meeting on December 13, 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 Senator Scott DeLano and Representative Timmy Ladner are the new chairmen of the Senate and House environmental and conservation committees.

Setting of Meeting

The Commission decided to meet next on Thursday, February 22, 2024, 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

EMERGENCY CLEAN-UP EXPENSES

To: CTEH
Amount: \$4,101.83 Date of Response: 10/21/23
For: Costs associated with supervision, labor, equipment and materials to respond to and help provide air-monitoring services in Union County.

To: E3 Environmental
Amount: \$17,827.02 Date of Response: 07/25/23
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a petroleum spill due to an accident in Jackson County.

To: E3 Environmental
Amount: \$7,497.66 Date of Response: 08/17/23
For: Costs associated with providing supervision, labor, equipment and materials to respond to and help provide clean up services in Newton County.

To: E3 Environmental
Amount: \$2,986.07 Date of Response: 09/13/23
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a petroleum spill due to an accident in Harrison County.

ADMINISTRATIVE ORDERS

	<u>Respondent</u>	<u>Order No.</u>	<u>Summary</u>
1	Steel Dynamics Columbus, LLC Lowndes Co., MS	Order No. 7293 23 Respondent agrees to pay MDEQ a penalty in the amount of \$24,300.00 within forty-five (45) days of this Agreed Order.	Respondent violated Condition No. 3.B.26 of Title V Operating Permit No. 1680-00064 by exceeding the Carbon Monoxide emissions limitations during a stack test of Emission Point AA-015b on February 21, 2022. Respondent demonstrated compliance with the Carbon Monoxide emissions limitations during a stack test on May 16, 2022.
2	City of Canton Madison Co., MS	Order No. 7294 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 was in violation of 11 Miss..Admin..Code Pt. 6, R. 1.1.1. B (2)(a) for operating without a valid NPDES Permit.
3	Cappaert Manufactured Housing, Inc. Warren Co., MS	Order No. 7295 23 Respondent shall comply with all terms and conditions of Solid Waste Management Permit no. SW0750040446 until such time as the Mississippi Environmental Quality Permit Board acts on the solid waste permit application received by MDEQ on July 21, 2023.	Respondent was in violation of Condition D.2 of Solid Waste Management Permit no. SW0750040446 for failure to submit an application for renewal at least one-hundred eighty days before permit expiration.
4	Iconic Buildings, LLC Harrison Co., MS	Order No. 7296 23	This order acknowledges the completion of all remedial activities under the Corrective Action Plan and Brownfield Agreement by Iconic Buildings, LLC for the former Triplett Day Drug Building in Gulfport, MS
5	View, Inc. DeSoto Co., MS	Order No. 7297 23 Respondent agrees to pay MDEQ a penalty in the amount of \$12,000.00 within forty-five (45) days of this Agreed Order.	Respondent violated Miss. Code Ann. §49-17-29 (2)(b) for discharging stormwater prior to obtaining coverage under Mississippi's Industrial Storm Water General Permit for Industrial Activities. Respondent also violated various conditions of the Industrial Storm Water General Permit for Industrial Activities after it obtained Coverage No. MSR002419.

6	Consolidated Catfish Companies, LLC Humphreys Co., MS	Order No. 7298 23 Respondent agrees to pay MDEQ a penalty in the amount of \$24,000.00 within forty-five (45) days of this Agreed Order. Additionally, Respondent agreed to develop a plan to return the wastewater treatment system to compliance with the permit.	Respondent violated the effluent Total Ammonia Nitrogen, E coli, and Total Suspended Solids limitations required by NPDES Permit no. MS0039659.
7	Future Foam, Inc. Lee Co., MS	Order No. 7299 23 Respondent agreed to comply with all terms and conditions of Synthetic Minor Operating Permit No. 1540-00046 that was issued on January 18, 2019, and modified on March 22, 2021, and February 14, 2023, until the Mississippi Environmental Quality Permit Board acts on the Renewal Application received on July 19, 2023.	Respondent violated Conditions 1.A.12. and 1.C.6 of Synthetic Minor Operating Permit No. 1540-00046. Respondent installed two (2) HVAC units and a new 80kW natural gas-fired emergency generator prior to the modification of the expiration date of the Permit.
8	The City of Jackson Hinds Co., MS	Order No. 7300 23	This is an Agreed Scheduling Order to establish pre-filed testimony, motion, and response deadlines; schedule a pre-hearing conference; and schedule an evidentiary hearing on January 25, 2024, related to an environmental enforcement matter against the City of Jackson.
9	Mississippi Power Company Harrison Co., MS	Order No. 7301 23 Respondent agrees to pay MDEQ a penalty in the amount of \$26,250.00 within thirty (30) days of this Agreed Order. Additionally, Respondent agreed to submit to MDEQ a study plan to implement the Impingement Study. Once MDEQ has approved Respondent's study plan, Respondent will move forward with implementing the Impingement Study.	Respondent will not be in compliance with Condition T-19 of its NPDES Permit beginning on January 1, 2024.
10	Strong River Construction, LLC Simpson Co., MS	Order No. 7302 24 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 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.

Amended Agreed Orders

1	Jamie Whitten Delta States Research Center	Second Amendment to Agreed Order No. 7084-20	This Agreed Order will be amended to extend the interim limitations until the Mississippi Environmental Quality Permit Board acts on the facility's permit application dated September 29, 2023, but not later than June 30, 2024.
2	The City of Jackson Hinds Co., MS	Amendment to Agreed Order No. 7300 23A	This is an Amended Agreed Scheduling Order to establish pre-filed testimony, motion, and response deadlines; schedule a pre-hearing conference; and schedule an evidentiary hearing on February 22, 2024, related to an environmental enforcement matter against the City of Jackson.