

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
JUNE 23, 2016

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, June 23, 2016, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

- John Dane III
- Dick Flowers, Acting Chairman
- Ted Kendall IV
- Brenda Lathan
- Chat Phillips

Commissioners Billy Van Devender and Jack Winstead were not present.

Others present were: Gary Rikard, Executive Director; Willie McKercher, James Matheny, Roy Furrh, Kim Caviness-Reardon, Richard Harrell, Mike Freiman, staff of MDEQ; and other staff members and visitors whose names appear elsewhere in these minutes.

The meeting was called to order by the Acting Chairman Dick Flowers, after which the following business was transacted:

Approval of Minutes

On motion made by Mr. Phillips and seconded by Ms. Lathan, the minutes of the April 28, 2016, meeting were approved and adopted as the Official Minutes.

Commission Approval of Brownfield Agreement – Wal-Mart Real Estate Business Trust- Pascagoula, Jackson County

On behalf of MDEQ staff, Mr. Willie McKercher, recommended the Commission approve the Brownfield Agreement between the Commission and Wal-Mart Real Estate Business Trust regarding the remediation of brownfield property located in the southwest quadrant of the Communy Avenue and Market Street intersection in Pascagoula, Mississippi. The administrative record for this environmental response project is referred to as Estabrook Toyota. Past use of the facility included gas stations, car dealership, and automotive paint, body repair, and service facilities. Assessments revealed an area of limited contamination of petroleum related contaminants in the groundwater and soil at levels in excess of the Target Remediation Goals. Therefore, remediation of the Brownfield Agreement Site was necessary. The proposed use of the Site after completion of all remediation will be a Wal-Mart retail store. The staff of the 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. Following staff presentation and deliberation, on motion made by Mr. Philips and seconded by Mr. Dane, the Commission unanimously voted to approve the Brownfield Agreement between the Commission and Wal-Mart Real Estate Business Trust regarding the remediation of brownfield property located in the southwest quadrant of the Communy Avenue and Market Street intersection in Pascagoula, Mississippi.

Commission Approval of Brownfield Agreement –Hernando Town Properties, LLC -Hernando, Desoto County

On behalf of MDEQ staff, Mr. Willie McKercher, recommended the Commission approve the Brownfield Agreement between the Commission and Hernando Town Properties, LLC regarding the remediation of brownfield property located at 2353 Highway 51 South in Hernando, Mississippi. The site is hereafter referred to as the "Reliable Equipment Brownfield Agreement Site." Past use of the facility included a retail farm/land equipment supply store and maintenance repair shop which utilized gasoline and diesel range Total Petroleum Hydrocarbons, which have impacted soil and groundwater at the Site. Therefore, remediation of the Brownfield Agreement Site was necessary. The proposed future land use of the site will be a 3 story, approximately 18,000 square foot (6000 sq. ft. per level) mixed-use building for retail/restaurant, office, and apartment redevelopment. The staff of the 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. Following staff presentation and deliberation, on motion made by Mr. Dane and seconded by Mr. Phillips and Ms. Lathan, the

Commission unanimously voted to approve the Brownfield Agreement between the Commission and Hernando Town Properties, LLC regarding the remediation of brownfield property located at 2353 Highway 51 South in Hernando, Mississippi.

Request of Commission Variance and Commission Approval of Brownfield Agreement – Spring Plaza, Ocean Springs, Jackson County

Mr. Willie McKercher, on behalf of MDEQ staff, requested the Commission consider a variance to the following Commission regulation related to the proposed Village Cleaners Brownfield Agreement: *11 Miss. Admin. Code, Pt. 3:*

R. 2.1.4 Public Notice Requirements.

A. Public Notice Requirements

(1) Public Notice by the MCEQ:

(a) At least forty-five days (45) before the date MCEQ considers the proposed Brownfield Agreement, MDEQ shall publish a public notice in a newspaper of general circulation in the county or counties in which the Brownfield Agreement Site is located. The public notice shall:

- (1) describe the proposed Brownfield Agreement, including the proposed Brownfield Agreement Site;
- (2) request public comment on the proposed agreement within thirty (30) days after the date of publication of the notice; and
- (3) provide the date and location of MCEQ's consideration of the proposed Brownfield Agreement.

11 Miss. Admin. Code Pt. 3, R. 2.1.4 A(1)(a) requires a minimum forty-five (45) days before consideration of a proposed Brownfield Agreement. The 30-day public comment period on the proposed Village Cleaners Brownfield Agreement Site was completed on June 20, 2016. The provided 30-day public comment period is specified in the above regulation and is required by Miss. Code Ann. § 49-35-9 (1) (a). No public comments were received. The Staff of the MDEQ requested a variance from the 45-day notice requirement in its regulations to allow the Commission to consider the proposed brownfield agreement during this meeting as no public comments were received during the 30-day public comment period. The Commission is authorized to make exceptions to and grant variances to its regulations pursuant to Miss. Code Ann. § 49-2-9 (1) (b). Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Mr. Dane, the Commission unanimously voted to approve a variance from the 45-day notice requirement in its regulations to a 30-day notice requirement in its regulations in order to consider the proposed Village Cleaners Brownfield Agreement.

Staff further recommended that the Commission approve the Brownfield Agreement between the Commission and Spring Plaza regarding the remediation of brownfield property in Ocean Springs, Mississippi. The site is hereafter referred to as the "Village Cleaners Brownfield Agreement Site." The property is utilized as a shopping center which contained Village Cleaners, a dry cleaning operation and the source of the environment impacts. Assessments revealed an area of soil and groundwater contamination resulting from past operations. Therefore, remediation of the Brownfield Agreement Site was necessary. The proposed use of the Site after completion of all remediation will continue to be commercial in nature. The staff of the 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. Following staff presentation and deliberation, on motion made by Mr. Dane and seconded by Ms. Lathan, the Commission unanimously voted to approve the Brownfield Agreement between the Commission and Spring Plaza regarding the remediation of brownfield property in Ocean Springs, Mississippi, also known as the "Village Cleaners Brownfield Agreement Site."

Commission Approval of Completion of Brownfield Agreement – Tupelo Redevelopment Agency- Tupelo, Lee County

Mr. Willie McKercher stated on August 24, 2006, the Commission reached a Brownfield Agreement (#5180-06) with Tupelo Redevelopment Agency for the remediation of the former Long's Laundry Site in Tupelo, Mississippi. On March 7, 2016, and in accordance with 11 Miss. Admin. Code Pt. 3, R. 2.1.7.B: Final Regulations Governing Brownfield Voluntary Cleanup and Redevelopment in Mississippi, EarthCon Consulting Group, on behalf of the Tupelo Redevelopment Agency, sent a petition

to the Commission to make a determination as to the completion of Brownfield Agreement and as to the issuance of a "no further action" letter by the Executive Director. The staff of the MDEQ reviewed the petition, conducted the required inspection of the Brownfield Agreement Site, and recommended that the Commission issue an order in accordance with the Brownfield Regulations concluding that Tupelo Redevelopment Agency completed Brownfield Agreement #5180-06. Following staff presentation and deliberation, on motion made by Ms. Lathan and seconded by Mr. Phillips, the Commission unanimously concluded that the Tupelo Redevelopment Agency completed Brownfield Agreement #5180-06 and authorized that a "no further action" letter be signed by the Executive Director.

Commission Approval of Environmental Covenant – Port of Greenville, Delta Terminal, Inc. and TransMontaigne Operating Company LP-Greenville, Washington County

On behalf of MDEQ staff, Mr. Willie McKercher, recommended the Commission approve the Environmental Covenant between the Commission and the Port of Greenville, Delta Terminal Inc., and TransMontaigne Operating Company LP regarding the remediation of property located at 2081 Harbor Front Road, Greenville, MS referred to as the "TransMontaigne Mississippi Terminal Harbor Front Road Site", AI-#2287. The Environmental Covenant includes TransMontaigne and adjacent property owners related to a 2004 release of 35,000 gallons of urea ammonium nitrate fertilizer. Environmental Site Assessments revealed a release of hazardous substances impacting soils and groundwater, including but not limited to Ammonia and Nitrate in excess of Target Remediation Goals (TRGs). Therefore, remediation of the site was necessary. The staff of the MDEQ evaluated the proposed Environmental Covenant and believes that, with the conditions and restrictions contained within, the site will be in compliance with applicable State laws and standards and will be protective of the public health and the environment. Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Mr. Kendall, the Commission unanimously voted to approve the Environmental Covenant between the Commission and the Port of Greenville, Delta Terminal Inc., and TransMontaigne Operating Company LP regarding the remediation of property located at 2081 Harbor Front Road, Greenville, MS.

Commission Approval of Environmental Covenant – Huron Smith Oil Company, Inc. -Batesville, Panola County

On behalf of MDEQ staff, Mr. Willie McKercher, recommended the Commission approve the Environmental Covenant between the Commission and Huron Smith Oil Company, Inc. regarding the remediation of property located at 204 Hays Street, Batesville, MS. Huron Smith Oil Company, Inc. operated the site as a bulk fuel terminal. Environmental Site Assessments revealed a release of petroleum impacting soils and groundwater at concentrations in excess of Target Remediation Goals (TRGs). Therefore, remediation of the site was necessary. The staff of the MDEQ evaluated the proposed Environmental Covenant and believes that, with the conditions and restrictions contained within; the site will be in compliance with applicable State laws and standards and will be protective of the public health and the environment. Following staff presentation and deliberation, on motion made by Ms. Lathan and seconded by Mr. Dane, the Commission unanimously voted to approve the Environmental Covenant between the Commission and Huron Smith Oil Company, Inc. regarding the remediation of property located at 204 Hays Street, Batesville, MS.

Establishment of the Lignite Mining Fee for Liberty Fuels Company, LLC for the Liberty Mine in Kemper County for State Fiscal Year 2017;
Establishment of the Lignite Fee for the Mississippi Lignite Mining Company for the Red Hills Mine in Choctaw County for State Fiscal Year 2017

Mr. James Matheny, on behalf of MDEQ staff, recommended the Liberty Fuels Company, LLC Lignite Mining Fee for the 2017 state fiscal year be set at \$125,000, which is the same as for state fiscal year 2016. On behalf of staff, Mr. Matheny also recommended that the Mississippi Lignite Mining Company Lignite Mining Fee for the 2017 state fiscal year be set at \$125,000, which is the same as for state fiscal year 2016. 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. Dane and seconded by Mr. Phillips, the Commission unanimously voted to set the Liberty Fuels Company, LLC Lignite Mining Fee for the 2017 state fiscal year at \$125,000 and set the Mississippi Lignite Mining Company Lignite Mining Fee for the 2017 state fiscal year at \$125,000. The Commission also authorized Orders setting these fees be executed by the Executive Director.

Stephanie Howard, Executrix of the Estate of Gerald Donald-Request for an Evidentiary Hearing-Proposed Final Order

Mr. Roy Furrh stated that following a presentation by designated Hearing Officer Ricky Luke to the Commission which included his Findings and Recommendation, a Motion to Lift Stay and Motion to Dismiss filed by the oil company defendants in the referenced matter was granted by the Commission at its meeting on April 28, 2016. A proposed final Order which memorializes the Commission's decision was previously forwarded to the Commission for consideration. The proposed final Order also included a requirement that a certified copy of the Order be filed in the land records of the Chancery Clerk of Wayne County to provide notice to potential purchasers of the subject property. Following staff presentation and deliberation, on motion made by Mr. Dane and seconded by Ms. Lathan, the Commission authorized that the proposed final Order memorializing the Commission's decision be executed by Mr. Flowers.

Update on the Development of Numeric Nutrient Criteria for MS

Mrs. Kim Caviness-Reardon briefed the Commission on current numeric nutrient criteria development activities, including implementation planning and stakeholder outreach, along with the anticipated timeline for work in this area. This briefing was for informational purposes only, requiring no action by the Commission.

Briefing on the 2016 Mississippi Section 303(d) List of Impaired Water Bodies

Mr. Mike Freiman briefed the Commission on the 2016 Mississippi Section 303(d) List of Impaired Water Bodies. Staff previously briefed the Commission at the February meeting on the public notice and hearing scheduled for March 14, 2016. Public comments were received and the responsiveness summary was prepared. EPA issued no further comment on the draft list. The Commission was previously provided with a document package including the hearing transcript, a copy of the written comments received, draft list for public review, public notice and proof of publication, and MDEQ CALM document. Additionally, the Commission was provided with the responsiveness summary and the final 303(d) list. Staff requested the Commission adopt the 2016 list and propose the list to EPA Region 4 for their final approval along with an accompanying Order. Following staff presentation and deliberation, on motion made by Mr. Dane and seconded by Mr. Phillips, the Commission unanimously voted to adopt the 2016 Mississippi Section 303(d) List of Impaired Water Bodies, and propose the list to EPA Region 4 for their final approval along with an accompanying Order.

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 that have been awarded to local governments:

<u>County/Municipality</u>	<u>Grant Amount</u>
Adams County Board of Supervisors	\$41,524
Alcorn County Board of Supervisors	\$25,000
Amite County Board of Supervisors	\$23,234
Attala County Board of Supervisors	\$53,195
Benton County Board of Supervisors	\$10,006
Bolivar County Board of Supervisors	\$15,741
Carroll County Board of Supervisors	\$12,325
Chickasaw County Board of Supervisors	\$11,715
Claiborne County Board of Supervisors	\$24,175
Coahoma County Board of Supervisors	\$10,982
Copiah County Board of Supervisors	\$15,863
DeSoto County Board of Supervisors	\$41,492
Forrest County Board of Supervisors	\$16,352
Golden Triangle Regional Solid Waste Management Authority	\$60,000
Hancock County Board of Supervisors	\$50,000
Hancock County Regional Solid Waste Management Authority	\$22,500
Hinds County Board of Supervisors	\$20,378
Harrison County Board of Supervisors	\$23,185
Itawamba County Board of Supervisors	\$15,497

Jasper County Board of Supervisors	\$20,684
Jefferson County Board of Supervisors	\$35,140
Kemper County Board of Supervisors	\$12,569
Lamar County Board of Supervisors	\$25,000
Lauderdale County Board of Supervisors	\$22,209
Lawrence County Board of Supervisors	\$11,715
Leake County Board of Supervisors	\$34,209
Lincoln County Board of Supervisors	\$29,914
Lowndes County Board of Supervisors	\$19,524
Madison County Board of Supervisors	\$25,000
Marion County Board of Supervisors	\$15,864
Marshall County Board of Supervisors	\$18,060
Monroe County Board of Supervisors	\$17,572
Neshoba County Board of Supervisors	\$17,084
Newton County Board of Supervisors	\$14,521
Noxubee County Board of Supervisors	\$10,982
Panola County Board of Supervisors	\$50,000
Pearl River County Board of Supervisors	\$23,429
Perry County Board of Supervisors	\$11,837
Pike County Board of Supervisors	\$22,177
Pike County Board of Supervisors	\$13,570
Pontotoc County Board of Supervisors	\$15,497
Quitman County Board of Supervisors	\$19,884
Rankin County Board of Supervisors	\$33,198
Scott County Board of Supervisors	\$24,253
Sharkey County Board of Supervisors	\$8,054
Simpson County Board of Supervisors	\$16,352
Smith County Board of Supervisors	\$13,423
Stone County Board of Supervisors	\$11,959
Sunflower County Board of Supervisors	\$14,033
Tallahatchie County Board of Supervisors	\$12,325
Tate County Board of Supervisors	\$14,155
Tippah County Board of Supervisors	\$13,667
Tishomingo County Board of Supervisors	\$13,301
Tunica County Board of Supervisors	\$11,715
Warren County Board of Supervisors	\$15,741
Webster County Board of Supervisors	\$10,494
Wilkinson County Board of Supervisors	\$10,128
Yalobusha County Board of Supervisors	\$10,982
City of Clinton	\$25,000
City of Durant	\$15,000
City of Greenville	\$50,000
City of Itta Bena	\$10,000
City of Jackson	\$75,000
City of Olive Branch	\$23,000
City of Ridgeland	\$15,400
City of Waveland	\$15,000
City of Waynesboro	\$15,000

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>
Kemper County Board of Supervisors	\$19,260
Leake County Board of Supervisors	\$21,745
Lincoln County Board of Supervisors	\$25,000
Marion County Board of Supervisors	\$60,000
Walthall County Board of Supervisors	\$25,000
Yazoo County Board of Supervisors	\$75,000
City of Canton	\$54,000
City of Jackson	\$75,000

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 213 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 135 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 30 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 76 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 19 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

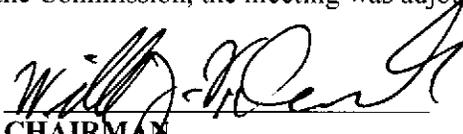
Executive Director Gary Rikard recognized the retirements of Trey Hess, Chief, Groundwater Assessment and Remediation Division and Richard Harrell, Director, Office of Pollution Control and thanked them both for a job well done. Chris Sanders will take over as Director, Office of Pollution Control.

Setting of Meeting

It was the decision of the Commission to meet next on Thursday, July 28, 2016, beginning at 9:00 a.m., in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi.

Adjournment

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


CHAIRMAN

ATTEST:


EXECUTIVE DIRECTOR