

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

Thursday, April 28, 2016
9:00 A.M.
Room 104A
515 East Amite Street
Jackson, Mississippi 39201

AGENDA

1. **Call to Order - Chair**
2. **Approval of Minutes of February 25, 2016 Meeting**
3. **Commission Approval of Environmental Covenant**

The staff recommends that the Commission approve the Environmental Covenant between the Commission and the U.S. General Services regarding the remediation of property located adjacent to 3505 25th Avenue, Gulfport, Mississippi, referred to as the "USDA APHIS Laboratory (AI#69227)." The Site was the former Analytical and Natural Products Chemistry Lab (ANPCL), Center for Plant Science Health and Technology (CPHST). Environmental Site Assessments have revealed a release of hazardous substances impacting soils and groundwater, including but not limited to Dieldrin, Helptachlor Epoxide, and Beta-BHC in excess of Target Remediation Goals (TRGs). Therefore, remediation of the site is necessary. The staff of the MCEQ has 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.

4. **FY2017 Title V Fee Recommendation**

A public hearing concerning the FY2017 Title V permit fee to be set by the Commission was held on April 6, 2016. No comments were received. Copies of the hearing transcript have been provided. The staff will recommend that the Commission set the FY2017 Title V permit fee at \$47.00 per ton of regulated air pollutants with a minimum fee of \$250.00.

5. **Adoption of Amendments to 11 Mississippi Administrative Code, Part 2, Chapter 5, Regulations for the Prevention of Significant Deterioration of Air Quality and Associated Revision to the Mississippi State Implementation Plan for the Control of Air Pollution**

The amendments to 11 Miss. Admin. Code, Pt. 2, Ch. 5, "Regulations for the Prevention of Significant Deterioration of Air Quality" and the associated Revision to the State Implementation Plan for Control of Air Pollution (SIP Revision) involve the adoption, by reference, of recent changes to federal rules in order to keep state regulations consistent with federal requirements. Specifically, the amendments will remove the portions of the Greenhouse Gas Tailoring Rule removed from the federal Prevention of Significant Deterioration of Air Quality (PSD) regulations on August 19, 2015 and will incorporate other changes to the federal PSD regulations promulgated by the U.S. Environmental Protection Agency (EPA) on July 12, 2012, January 15, 2013, May 7, 2015, and October 26, 2015, through adoption by reference. A public hearing was held on March 18, 2016 and no comments other than from EPA were received. The staff will recommend that the Commission adopt the proposed regulation amendments and SIP Revision.

6. **Stephanie Howard, Executrix of the Estate of Gerald Donald-Request for an Evidentiary Hearing**

A Motion to Lift Stay and Motion to Dismiss have been filed by the oil company defendants in the referenced matter. Stephanie Howard, ("Petitioner") owns property in Wayne County which she claims is contaminated with naturally occurring radioactive material related to a previous truck washing operation conducted on the site by Davis Brothers. Petitioner claims that Davis Brothers contracted with the oil company defendants who contaminated the site. Petitioner filed the current administrative action seeking a Commission ruling that the defendants were responsible for clean-up of her property because the Circuit Court of Wayne County required Petitioner to exhaust her administrative remedies through the Commission before Petitioner would be allowed to pursue her suit for damages in Circuit Court against the oil company defendants. Petitioner had also filed a lawsuit in federal court for damages related to the alleged contamination. Petitioner failed to disclose her ownership of the property and the federal and state lawsuits as assets as required in a bankruptcy proceeding she previously filed with the U.S. Bankruptcy Court. Because Petitioner

failed to disclose the property and the lawsuits as assets of her bankruptcy estate, the Bankruptcy Court ruled Petitioner was judicially estopped from pursuing her claims related to the alleged contamination of her property including the administrative claim now pending before the Commission. The Bankruptcy Court denied Petitioner's request to stay its decision pending her appeal of the Court's decision to the U.S. District Court for the Southern District of Mississippi, Southern Division. The District Court affirmed the Bankruptcy Court's decision and the Petitioner appealed that decision to the U.S. Court of Appeals, Fifth Circuit. Citing the Bankruptcy Court's judicial estoppel finding, the U.S. District Court for the Southern District of Mississippi, Eastern Division, dismissed Petitioner's separate federal lawsuit for damages with prejudice. Before the Bankruptcy Court entered its decision, Petitioner and the oil company defendants entered an Agreed Order with the Commission agreeing to stay this matter. (Agreed Order No. 6304 13, August 27, 2013). The Commission had previously designated Assistant Attorney General Ricky Luke as a hearing officer in this matter. Mr. Luke conducted a hearing on the oil company defendants' Motion to Lift Stay and Motion to Dismiss on December 9, 2015, and allowed extensive briefing on this matter. The Commission has previously been provided materials for review which included copies of the Commission Agreed Order to Stay, Motion to Lift, Motion to Dismiss, Response, Reply, the transcript for the hearing held before Hearing Officer Luke on December 9, 2015, other Briefing and the Hearing Officer's Findings and Recommendation to the Commission. Hearing Officer Luke will present his Findings and Recommendation for the Commission's consideration, and ultimate decision, and will be available to answer any questions the Commission may have.

7. Asbestos Certifications

We have issued 226 asbestos certifications since the last report. This list will be available at the Commission meeting.

8. Lead Paint Certifications

We have issued 100 lead paint certifications since the last report. This list will be available at the Commission meeting.

9. Underground Storage Tanks (UST) Certifications

We have issued 25 certifications to those who install, alter, or remove underground storage tanks since the last report. This list will be available at the Commission meeting.

10. Emergency Clean-Up Expenses

We have 9 emergency expenditures since the last report. See **Attachment 1** at the end of this agenda.

11. Administrative Orders

We have issued 17 administrative orders since the last report and they should be added to the minutes. The staff will highlight any orders that we think are especially noteworthy. See **Attachment 2** at the end of this agenda.

12. Other Business

13. Confirmation of meeting on May 26, 2016

14. Adjournment

EMERGENCY SERVICES CLEAN-UP

To: CTEH
Amount: \$3,380.38 **Date of Response:** 01/13/16
For: Costs associated with providing supervision, labor, equipment and materials to provide air monitoring services in Lee County.

To: Complete Environmental Services
Amount: \$11,732.45 **Date of Response:** 12/18/15
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a diesel spill in Jones County.

To: Complete Environmental Services
Amount: \$2,456.92 **Date of Response:** 08/05/15
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a gasoline spill in Forrest County.

To: Complete Environmental Services
Amount: \$1,581.30 **Date of Response:** 01/27/16
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a diesel spill in George County.

To: Complete Environmental & Remediation
Amount: \$6,448.47 **Date of Response:** 12/23/15
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a diesel/oil spill in Jones County.

To: United States Environmental Services
Amount: \$1,879.05 **Date of Response:** 12/03/15
For: Costs associated with providing supervision, labor, equipment and materials to clean up a diesel spill in Hinds County.

To: United States Environmental Services
Amount: \$2,133.35 **Date of Response:** 11/09/15
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a motor oil spill in Hinds County.

To: United States Environmental Services
Amount: \$4,919.56 **Date of Response:** 10/07/15
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a muriatic acid spill in Tate County.

To: W.T. Drilling
Amount: \$5,004.45 **Date of Response:** 02/04/16
For: Costs associated with providing supervision, labor, equipment and materials to respond to and clean up a saltwater/crude oil spill in Amite County.

(Attachment 2)
4/28/2016

	<u>Respondent</u>	<u>Order No.</u>	<u>Summary</u>
1	Oxford Sand Company, Inc. Lafayette Co., MS	Order No. 6621 16 Respondent agrees to the requirements listed in Section 2, A-D of this Agreed Order which includes a penalty of \$5,000.00 payable to MDEQ within forty-five (45) days of this Agreed Order.	Respondent was in violation of Surface Mining Permit No. P10-021.
2	VT Halter Marine, Inc. Jackson Co., MS	Order No. 6622 16 Respondent agrees to the requirements listed in Section 2, A-E of this Agreed Order which include a penalty in the amount of \$17,500.00 payable to MDEQ within forty-five (45) days of this Agreed Order.	Respondent failed to meet requirements of Agreed Order 6474 14 Condition 2.D
3	BFI Waste Systems of Mississippi LLC, Little Dixie Landfill Ridgeland, MS	Order No. 6623 16 Respondent agrees to pay MDEQ a penalty in the amount of \$75,000.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Solid Waste Management Permit No. SW04501A0238
4	Stark Alan, LLC Oktibbeha Co., MS	Order No. 6624 16 Respondent agrees to the remediation requirements/obligations to be conducted in this Brownfield Agreement Order.	Respondent and the MCEQ agree, through this Brownfield Agreement, that the contaminated Site will be in compliance with all applicable State and Federal laws and standards, once complete.
5	Delmas Nursery Jackson Co., MS	Order No. 6625 16 Respondent agrees to the remediation requirements/obligations to be conducted in this Brownfield Agreement Order.	Respondent and the MCEQ agree, through this Brownfield Agreement, that the contaminated Site will be in compliance with all applicable State and Federal laws and standards, once complete.
6	Adoption of Title 11	Order No. 6626 16	This Order confirms the adoption of the proposed amendments for MDEQ's regulation for Water Quality Criteria for Intrastate, Interstate and Coastal Waters.
7	Yazoo City, City of, Yazoo Rubbish Pit Yazoo Co., MS	Order No. 6627 16 Respondent agrees to pay MDEQ a penalty in the amount of \$8,400.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of the Mississippi Nonhazardous Solid Waste Management Regulations and Solid Waste Management General Permit No. SWGP-R1
8	Gulf Coast Shipyard Group, Inc. and Maritime Development, LLC Harrison Co., MS	Order No. 6628 16 Respondent agrees to the requirements listed in this Agreed Order.	This Order confirms that the MDEQ approves the completion of Restrictive Use Agreed Order No. 5086-05 and has concluded that no further action at the site is required at this time.
9	Cary POTW Sharkey Co., MS	Order No. 6629 16 Respondent agrees to pay MDEQ a penalty in the amount of \$937.50 within forty-five (45) days of this Agreed Order and to meet all requirements listed in Section 2 of this Agreed Order.	Respondent was in violation of NPDES Permit No. MS0021547.

10	Wastewater Operator Certification Exam Fee	Order No. 6630 16	This order authorizes the Commission to set a fee to be charged by the Commission for the wastewater operator certification examination. The Commission approved the staff's recommendation to increase exam fee from thirty-five dollars to forty dollars.
11	Precision Spine, Inc. Rankin Co., MS	Order No. 6631 16 Respondent agrees to pay MDEQ a penalty in the amount of \$9,461.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of discharging with a permit and misrepresenting the volume and nature of the monitored wastewater.
12	Joe McGee Construction Company, Inc. Rankin Co., MS	Order No. 6632 16 Respondent agrees to pay MDEQ a penalty in the amount of \$15,150.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Mississippi Large Construction Storm Water General Permit Certificate of Coverage MSR106284.
13	Charles Donald Pulpwood, Inc., Copiah Co., MS	Order No. 6633 16 Respondent agrees to pay MDEQ a penalty in the amount of \$15,000.00. Respondent shall pay the first of three equal installments of \$5,000.00 to MDEQ no later than April 1, 2016. The second installment of \$5,000.00 shall be paid to MDEQ no later than August 1, 2016. The final installment of \$5,000.00 shall be paid to MDEQ no later than December 1, 2016.	Respondent was in violation of the Wet Deck Log Spray General Permit. Respondent failed to provide access to records associated with the permit. Respondent failed to provide secondary containment around the on-site diesel fuel container as required by permit. Respondent has allowed facility to form an unauthorized dump on its property.
14	Glen Madden, III d/b/a M&M Well Service Harrison Co., MS	Order No. 6634 16 Respondent shall immediately cease and desist from engaging in the business of constructing or repairing water wells; and Respondent shall immediately cease and desist from advertising and holding himself out to be a water well driller or pump installer/servicer.	Respondent was in violation of operating as water well/pump contractor in Harrison County without the required license.
15	Peco Foods, Inc. Scott Co., MS	Order No. 6635 16 Respondent agrees to pay MDEQ a penalty in the amount of \$10,000.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of MS0002615.
16	Clifton Rogers Jr., INDIVIDUALLY and Kips Tree Service, Inc. Rankin Co., MS	Order No. 6636 16 Respondent agrees to cease the disposal/placement of additional vegetative debris and/or waste(s) at both sites. Respondent agrees to pay MDEQ a penalty in the amount of \$28,000.00. Respondent shall pay \$12,000.00 of this penalty within forty-five (45) days of this Agreed Order. \$16,000.00 of the \$28,000.00 shall be held in abeyance by Complainant pending Respondents compliance.	Respondent was in violation of forming an illegal dump and placing waste in a location that could potentially pollute state waters.
17	Triangle Construction Co., Inc. Copiah Co., MS	Order No. 6637 16 Respondent agrees to pay MDEQ a penalty in the amount of \$20,162.00 within forty-five (45) days of this Agreed Order.	Respondent was in violation of Mississippi Large Construction Storm Water General Permit Certificate of Coverage MSR106883.

