

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
MAY 23, 2013

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, May 23, 2013, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

Martha Dalrymple, Chairman
Charles Dunagin
Dick Flowers
Kay Kell
Chat Phillips
Billy Van Devender
Jack Winstead

Others present were: Trudy Fisher, Executive Director; Richard Harrell, Maya Rao, Tony Caldwell, Roy Furrh and Mark Williams, staff of MDEQ; and other staff members and visitors whose names appear elsewhere in these minutes.

The meeting was called to order by Chairman Dalrymple after which the following business was transacted:

Approval of Minutes

On motion made by Mr. Dunagin and seconded by Mr. Winstead, the minutes of the April 25, 2013, meeting were approved and adopted as the Official Minutes.

Adoption of a Revision to the State Implementation Plan (SIP Revision)

Ms. Maya Rao stated that the SIP revision involves the Transportation Conformity requirements of Section 176(c) of the Clean Air Act. This SIP revision is a Memorandum of Agreement (MOA) concerning the criteria, interagency consultation procedures, and enforceable commitments related to the conformity of transportation plans, and programs in the partial area of DeSoto County, Mississippi designated as non-attainment. The parties to this MOA are MDEQ, the Memphis Urban Area Metropolitan Planning Organization (MPO), the Mississippi Transportation Commission, the Mississippi office of the Federal Highway Administration, Region 4 of the Federal Transit Administration, and Region 4 of the Environmental Protection Agency. A 30-day public comment period was held, as well as a public hearing on April 9th 2013, and no comments were received. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Winstead, the Commission unanimously voted to adopt the proposed SIP Revision.

Water Pollution Control (Clean Water) State Revolving Fund Loan Program, Resolution of Necessity to Issue Bonds

Mr. Tony Caldwell stated that during the 2013 State legislative session, Senate Bill 2913 was passed and subsequently signed by the Governor, and provided for the issuance of \$1,000,000 in bonds to provide state matching funds required to obtain \$5,000,000 in available federal assistance for this program. In order to initiate this process, the Commission must adopt a resolution of necessity for issuance of these bonds. Executive Director, Trudy Fisher stressed 1) the importance of the Legislature authorizing 100% of the required match, 2) that interest payments from the Revolving Fund, not the State General Fund, are used to retire this bond debt, and 3) because of the lack of full state match bond authorizations in recent legislative sessions, the Revolving Fund is currently facing the possibility of loss of some of the available federal funds. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Winstead, the Commission unanimously voted to adopt the resolution of necessity for the issuance of these bonds.

Stephanie Howard, Executrix of the Estate of Gerald Donald, Wayne County-Designation of Hearing Officer

Mr. Roy Furrh stated that Stephanie Howard, Executrix of the Estate of Gerald Donald ("Petitioner") has requested a hearing before the Commission related to alleged Naturally Occurring Radioactive Material ("NORM") contamination on Petitioner's property in Wayne County. Petitioner has alleged that a number of oil companies and Davis Brothers ("Respondents") are responsible for the contamination. Pursuant to Miss. Code Ann. § 49-17-33, the Commission may designate a hearing officer to conduct the requested hearing for the Commission and have the record prepared. MDEQ staff recommended the Commission designate Ricky Luke, Special Assistant Attorney General, to serve as the hearing officer in this matter under Miss. Code Ann. § 49-17-33. Stage I of this matter has been scheduled to be heard on Monday, January 27, 2014. Stage I will determine the causation of the various Respondents, if any, for the alleged contamination on Petitioner's property. Thereafter, the record along with the hearing officer's findings of fact and recommended decision will be presented and the Commission will make the ultimate decision in this matter. There have been several preliminary filings in this matter which the Commission may be requested to consider at a future meeting. Following staff presentation and deliberation, on motion made by Mr. Dunagin and seconded by Mr. Van Devender, the Commission unanimously voted to designate Ricky Luke, Special Assistant Attorney General, to serve as the hearing officer in this matter.

Serenity Lane-Pearl River County-Approval of Commission Order and Designation of Hearing Officer

Mr. Roy Furrh stated at its April meeting, the Commission determined a prior MDEQ letter dated June 26, 2009, did not constitute an Order of the Commission or the Executive Director within the meaning of Miss Code Ann. § 49-17-41; the 30 day time period to challenge related to § 49-17-41 was not "triggered" by the issuance of the MDEQ letter dated June 26, 2009; Commission is authorized, but not required, to grant a hearing in this matter; the Serenity Lane residents ("Petitioners") would be provided with the requested Commission hearing based on review of the information submitted; and a hearing officer would be designated by the Commission to conduct the hearing and have the record prepared pursuant to Miss. Code Ann. § 49-17-33. MDEQ staff recommended the Commission designate Chuck Rubisoff, Special Assistant Attorney General, to continue to serve as the hearing officer in this matter. MDEQ staff also previously provided the Commission with a proposed copy of an order for review and consideration regarding the Commission's decision at the April 25, 2013, meeting. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Winstead, the Commission unanimously voted to designate Chuck Rubisoff, Special Assistant Attorney General, to continue to serve as the hearing officer in this matter. On a separate motion made by Mr. Dunigan and seconded by Mr. Winstead, the Commission unanimously voted to adopt and approve the proposed order.

Update on RESTORE Act and Other Oil Spill Restoration Activities

Executive Director, Trudy Fisher provided the Commission with updated information on Mississippi's Early Restoration Projects and RESTORE. The Mississippi Tier 1 Oyster Cultch Restoration project is scheduled for completion May 24, 2013, and the Mississippi Tier 1 Nearshore Artificial Reef project is scheduled for completion June 30, 2013. Proposals are still coming in for the Tier 3 projects. Mr. Van Devender expressed concern about how the Tire 3 projects would impact the off shore oil drilling in the Mississippi Sound. Mr. Richard Harrell stated there were regulations in place for this and suggested a briefing from MDA to address Mr. Van Devender's concerns. Mr. Van Devender agreed and Mr. Harrell will work to schedule this briefing. Ms. Fisher further stated the Restore Council is ready to release the draft restoration plan. The plan is now in the scoping phase and is ready for public comment. Mississippi's public comment session will be held June 11, 2013 at the Mississippi Gulf Coast Coliseum at 5:00 p.m. Other states will be holding public comment sessions, as well. This briefing was for informational purposes only, requiring no action by the Commission.

Briefing on Recycling Cooperative Grants Program

Mr. Mark Williams gave a presentation on the Mississippi Regional Recycling Cooperative Grants Program. Mr. Williams reminded the Commissioners that the Commission on Environmental Quality had adopted the regulations governing this program in July of 2010. These regulations provide for grants to support regional cooperative efforts by local governments in the collection, processing and marketing of recyclables. Mr. Williams informed the Commission that MDEQ plans to release a Funding Opportunity Announcement (FOA) on the availability of \$1 million in Regional Recycling Cooperative Grants in the coming weeks. He indicated that Applicants would be able to apply for funding of up to \$400,000 per regional cooperative project. Eligible applicants include municipalities, counties, regional recycling cooperatives, regional solid waste authorities, solid waste districts, or other multi-county/city entities. He also indicated that eligible costs under the grant included program development, collection and processing, material transportation, equipment/construction, integral personnel, public information and outreach, and other costs integral to the recycling system. Mr. Williams then discussed the goals that projects should attempt to meet. These goals include - establishing a recycling goal of at least 25%, providing recycling services to rural and underserved populations, maximizing the economic and environmental benefits to the region served, having documented political and regional support, clearly showing cooperative participation among the local governments involved, and supporting appropriate collection and processing services for recyclables. The residential materials to be collected should include cardboard, aluminum cans, mixed paper and/or old news print, tin cans, #1 and #2 plastics. Additional project goals should include long-term operational and financial commitments to recycling, recycling education and outreach, and measuring and reporting data during and after the project period. Mr. Williams indicated that the Notice of the FOA will be published and the forms and guidance would be posted on the MDEQ web site. Technical assistance will also be available to local governments from MDEQ for developing the proposal, and questions and responses will also be posted online. Upon reaching the deadline for submitting applications, MDEQ will review the projects and make recommendations for awards. Agreements will then be signed with the grantees. Under the program, payment will generally be made by reimbursement to the grantee with opportunities for advancements. Project summary reports will also be required during and after the grant project. After discussing how the program will work, Mr. Williams gave a briefing on why the program and recycling in general was important for the State. He indicated that MDEQ is working to promote and grow recycling in Mississippi because of the environmental and economic benefits. He discussed how recycling provides environmental benefits by conserving natural resources, conserving energy, reducing pollution and reducing the need for landfills. However, he primarily emphasized the economic benefits of recycling and discussed various studies and efforts that indicate how recycling creates jobs and generates employment income as well as revenue for state and local governments. This briefing was for informational purposes only, requiring no action by the Commission.

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>
Benton County Board of Supervisors	\$ 10,988
Chickasaw County Board of Supervisors	42,000
City of Cleveland	15,000
City of Tupelo	4,800
City of West Point	25,000
Hancock County Board of Supervisors	50,000
Lowndes County Board of Supervisors	21,440
Montgomery County Board of Supervisors	10,318
Oktibbeha County Board of Supervisors	16,884
Perry County Board of Supervisors	12,998
Quitman County Board of Supervisors	20,854
Tippah County Board of Supervisors	15,008

Town of Weir	6,300
Union County Board of Supervisors	15,544

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>
N.E. Solid Waste Management Authority	\$ 80,000
Sunflower County Board of Supervisors	30,000
Tunica County Board of Supervisors	25,000

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 99 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 45 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 3 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 Executive Director, DEQ, the staff reported that 17 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.

Setting of Meeting

It was the decision of the Commission to meet next on Thursday, June 27, 2013, 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.



 VICE-CHAIRMAN

ATTEST:



 EXECUTIVE DIRECTOR