

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
OFFICIAL MINUTES
AUGUST 22, 2013

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, August 22, 2013, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

Charles Dunagin
Dick Flowers
Kay Kell
Chat Phillips, Chairman
Billy Van Devender

Commissioners Martha Dalrymple and Jack Winstead were not present.

Others present were: Trudy Fisher, Executive Director; Richard Ingram, James MacLellan, Michael Bograd, and Harry Wilson staff of MDEQ; and other staff members and visitors whose names appear elsewhere in these minutes.

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

Approval of Minutes

On motion made by Mr. Dunigan and seconded by Mr. Van Devender the minutes of the July 25, 2013, meeting were approved and adopted as the Official Minutes.

Recognition of James MacLellan

Mr. Richard Ingram stated that James MacLellan would be receiving the Southeast Regional Award of Merit in September. The award is presented by the Association of State Dam Safety Officials and is given to an individual or organization that has made a significant impact on Dam Safety in the southeastern United States. Since Mr. MacLellan took over the lead of DEQ's Dam Safety Program in 2009, the program has achieved many accomplishments. Mr. MacLellan was recognized for these accomplishments and Executive Director Trudy Fisher thanked him for his leadership and hard work. Commissioners Kay Kell and Chat Phillips also recognized and thanked Mr. MacLellan.

Stephanie Howard, Executrix of the Estate of Gerald Donald, Wayne County-Preliminary Filings

Hearing Officer Ricky Luke, previously designated by the Commission at its meeting on May 23, 2013, stated a Preliminary Hearing on preliminary motions was held before him on July 17, 2013. The Oil Company Respondents filed a Motion to Deny Plaintiff's Illegitimate and Unauthorized Deposition Notices and Written Discovery Requests ("Motion to Deny Discovery") dated April 26, 2013. Additionally, the Petitioner, Executrix of the Estate of Gerald Donald, filed a Motion to Compel and for Contempt and/or Sanctions dated May 13, 2013. The Commission was previously provided with copies of the transcript of the Preliminary Hearing as well as the attached exhibits for its review. The exhibits included the previously mentioned Motions and the Notices, Objections, Responses and Replies filed by the Petitioner, the Oil Company Respondents and MDEQ. The Commission was also previously provided with the Findings and Recommendation of Hearing Officer related to the Motions, Notices, Objections, Responses and Replies filed by the parties for its review. Pursuant to Miss. Code Ann. § 49-17-33, Hearing Officer Luke presented his Findings and Recommendation for the Commission's consideration. Mr. Luke recommended the Commission grant the Oil Company Respondents' Motion to Deny Discovery since the Commission's regulations do not authorize discovery sought by the Petitioner through depositions or the interrogatories and requests for production of documents propounded to the Oil Company Respondents. In addition, Mr. Luke recommended the Commission deny

Petitioner's Motion to Compel and for Contempt and/or Sanctions concerning the previous subpoenas issued by the Commission to the Oil Company Respondents, since authority to grant said Motion could only come from the Circuit Court, Petitioner did not have standing to seek enforcement of the subpoenas and the Oil Company Respondents appeared to make a diligent effort to comply with the previous subpoenas issued by the Commission. Hearing Officer Luke also mentioned that while statutes currently allow for the Commission to issue subpoenas, there was no provision permitting private litigants to request subpoenas from the Commission.

However, since there was no pending subpoena or motion requested by the parties from the Commission, the Commission did not act on the subpoena issue. Finally, Hearing Officer Luke noted the Oil Company Respondents had recently filed a Motion to Stay, which was not before the Commission at this time. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Dunigan, the Commission unanimously voted to adopt Hearing Officer Luke's recommendations and grant the Oil Company Respondents' Motion to Deny Discovery dated April 26, 2013, and to deny the Petitioner's Motion to Compel and for Contempt and/or Sanctions dated May 13, 2013.

Commission Approval for Regulatory Variance

Mr. Harry Wilson stated that Georgia Pacific has been ordered to cease operating their existing landfill in Monticello, Mississippi. He also stated Georgia Pacific has purchased land on which they propose to build a new landfill and has submitted a permit application for construction and operation. However, the land does not meet MDEQ's regulatory natural geologic buffer criteria, so the permit has not been issued. Georgia Pacific has since developed an alternative solution to the regulatory geologic buffer criteria to bring before the Commission. Mr. Wilson introduced Mr. Tim Jones, Environmental Manager, with Georgia Pacific. Mr. Jones stated that Georgia Pacific makes pulp and paper products which are used in the construction of boxes. The company disposes industrial waste on site and is looking to construct the aforementioned new landfill. Since Georgia Pacific did not find a suitable area on site for the proposed landfill, they looked off site and found an area of land adjacent to the mill. Mr. Jones further explained that the land lacks the natural geology to meet MDEQ's regulatory geologic buffer criteria. Mr. Mark Taylor of synTerra then gave a slideshow presentation of Georgia Pacific's alternative liner system. Mr. Taylor presented that the proposed alternative liner system is believed to be more protective than the criteria required in the regulations and believe this liner system would make up for the geological deficiency found in at their site. Georgia Pacific requested the Commission approve the regulatory variance based on the performance of their liner system demonstrated by their engineering design calculations. Mr. Van Devender asked Mr. Wilson if this type of system has ever been approved in the past. Mr. Wilson responded that a request for a variance for this particular regulatory requirement has not been proposed to the Commission but went on to state that the natural geology requirement is unique to the State of Mississippi Solid Waste regulations, and is not found in other State's regulations in the region. Mr. Wilson stated that staff has reviewed the engineering design and calculations, and staff believes the proposed alternate liner provides equivalent or better protection to ground water and the environment than the natural geologic buffer the regulations currently require. Following staff presentation and deliberation, on motion made by Mr. Flowers and seconded by Mr. Dunagin, the Commission unanimously voted to grant the regulatory variance on Georgia Pacific's proposed industrial landfill.

Update on the Delta Sustainable Water Resources Task Force

Mr. Richard Ingram briefed the Commission on the recent activities of the Delta Sustainable Water Resources Task Force. Due to the decline of ground water levels and decreasing aquifer volumes, the Delta Sustainable Water Resources Task Force was established in 2011 to develop short and long term approaches for water conservation, support the economic viability of agriculture, and assure the viability of wildlife and fisheries. The members of the Task Force are Delta Council, Delta FARM, Mississippi Farm Bureau, Mississippi Soil and Water, Conservation Commission, US Natural Resource Conservation Service, US Army Corps of Engineers, and Yazoo Management District. Three work groups have also been established within the Task Force to target specific areas. The Conjunctive Water Management Work Group was established to increase adoption and improve

management of water conservation practices throughout the Delta, develop and implement alternative water supplies with higher initial emphasis in the central and western Delta, reduce overwhelming dependence on groundwater through a range of management options, prepare for drought, and develop goals and track progress. The Metering Work Group was established to help develop meter specifications for the voluntary metering program and to support metering initiatives. The goal of the voluntary metering program is to have 5% of all wells metered by June 30, 2014. If that goal is achieved, the voluntary process is extended with the intent of an additional 5% of all wells metered by December 30, 2015. If that goal is not achieved, a mandatory program will be implemented. The Education and Outreach Work Group has been tasked with outreach planning, branding and conducting a survey on stakeholder perceptions and beliefs. Mr. Van Devender asked when the results on optimum water usage in the Delta would be available. Mr. Ingram stated he hoped to present the water budget and recommendations by the end of the year and Mr. Phillips stated that conservation districts were putting more funds into needed areas. This briefing was for informational purposes only, requiring no action by the Commission.

Presentation on Geologic Importance

Mr. Michael Bograd, Director of the Office of Geology, gave a presentation on the geology of Yazoo County and its importance to our environment and the state of Mississippi. Over the next few Commission meetings staff will present work, research, and geology of a few other key counties within the State. This briefing was for informational purposes only, requiring no action by the Commission.

Recognition of Terri Torrence and Mandy Purvis

Executive Director Trudy Fisher introduced Terri Torrence in her new role as Director of the Office of Administrative Services and Mandy Purvis in her new role as Human Resources Director. Ms. Fisher thanked Mrs. Torrence and Mrs. Purvis for their willingness to take on these new positions.

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 92 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 55 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 2 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 62 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 16 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, September 26, 2013, beginning at 9:00 a.m., in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi.

Approval to Enter into Executive Session

Executive Director Fisher stated that there was an on-going legal matter to be discussed and the Commission needed to consider going into Executive Session. Since this would be a briefing, the Commission would not be taking or reporting any action. Mr. Dunagin made the motion for the Commission to enter into Closed Session to determine if the Commission should go into Executive Session. Mr. Flowers seconded the motion and the motion was unanimously approved. Everyone left the meeting room except the Commission and appropriate MDEQ staff. After the Closed Session was held, the Commission came back into open session. On motion made by Mr. Dunagin and seconded by Mr. Flowers, the Commission unanimously voted to go into Executive Session. After the Executive Session was held, the Commission came back into open session and stated that no actions were taken during the Executive Session.

Adjournment

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



CHAIRMAN

ATTEST:



EXECUTIVE DIRECTOR