

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICIAL MINUTES  
FEBRUARY 28, 2013

The regular monthly meeting of the Commission on Environmental Quality was held on Thursday, February 28, 2013, in the Commission Hearing Room, 515 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m. Commissioners present were:

Martha Dalrymple, Chairman  
Chat Phillips, Vice Chairman  
Charles Dunagin  
Jack Winstead

Commissioners Dick Flowers, Kay Kell and Billy Van Devender were not present.

Others present were: Trudy Fisher, Executive Director; Trent Jones, Jerry Banks, Maya Rao, Tony Caldwell, Roy Furrh, Chris Sanders and Kim Caviness, 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. Mr. Dunagin gave the invocation after which the following business was transacted:

Approval of Minutes

On motion made by Mr. Winstead and seconded by Mr. Phillips, the minutes of the November 29, 2012 meeting were approved and adopted as the Official Minutes.

Approval of Waste Tire Incentive Recycling Grants

Mr. Trent Jones stated that PolyVulc USA Inc. of Vicksburg, Mississippi has applied for a waste tire incentive recycling grant in the amount of \$264,950. Mr. Jones gave a brief history of the Mississippi Waste Tire Law which allows for Mississippi to collect approximately \$1 per tire on the sale of each new tire at wholesale in the state. These funds are collected by the State Tax Commission and transferred to MDEQ to administer and implement the provisions and goals of Mississippi's Waste Tire Law. The primary goal of the waste tire law is statewide recycling of waste tires and diverting tires from landfills. In order to build the recycling infrastructure in the state, the Legislature adopted a provision in the waste tire law that sets aside 15% of the incoming waste tire fees for incentive grants to attract persons or companies that will build and invest in industries that will manufacture products from waste tires. Since the early 1990's, a number of these grants have been awarded to private companies and research institutions totaling some \$5.9 million dollars. It is estimated that currently about 90% of all waste tires generated within Mississippi are recycled in part as a result of some of the incentive grants the Commission has awarded. The grant application by PolyVulc U.S.A, Inc. is requesting funding assistance for the purchase of certain shredding equipment to enable the company to process waste tire chips and/or residuals produced by its sister company, PolyVulc Tire Recycling, LLC (PTR) which is located in Jackson. PTR currently collects and processes approximately 1.2 million Mississippi waste tires each year (primarily car and truck tires). The waste tires are mechanically ground to produce approximately 28 million pounds of crumb rubber. PolyVulc's application indicates that the new equipment at the Vicksburg plant will recover additional rubber material from the processing of whole waste tires and produce clean steel suitable for scrap metal recycling. It is estimated that the addition of this processing unit will increase the material yield from 70% to 95% of the waste tire, thus increasing waste tire recycling rates, reducing disposal costs, and generating revenue from the steel recycling. The granulated rubber produced by PV would be transported to another sister company Winnsboro Rubber Recycling, LLC (WRR), located in Winnsboro, LA, for additional processing and final product development. Staff has reviewed the application and believes the proposed grant project will result in a substantial enhancement of the waste tire recycling capabilities of the PolyVulc companies. PolyVulc's grant request is for half of the total purchase cost of the shredder system which is approximately \$265,000. The other half of the total purchase cost of the shredder system shall serve as matching funds

as required by the grant regulations. Staff has evaluated the components of the PolyVulc proposal and believes that this project will help MS progress towards achieving the statewide waste tire recycling goals, diverting waste tires from landfills as set forth in the law and helping Mississippi companies generate new and additional feedstock materials for sale. Following staff presentation and deliberation, on motion made by Mr. Phillips and seconded by Mr. Dunagin, the Commission unanimously voted to approve the Waste Tire Incentive Recycling Grant to PolyVulc USA Inc. in the amount of \$264,950.

#### Approval of Brownfield Consulting Firms

Mr. Jerry Banks stated that staff has reviewed applications from consulting firms requesting to be listed as a Brownfield Consulting Firm and has determined them to be complete and acceptable. The staff recommended that the Commission approve the following firms as Brownfield Consulting Firms:

IMS Engineers  
126 E. Amite Street  
Jackson, MS 39201

SOL Engineering Services, LLC  
106 S. President Street, 4th Floor  
Jackson, MS 39201-2603

Following staff presentation and deliberation, on motion made by Mr. Winstead and seconded by Mr. Phillips, the Commission unanimously voted to approve the Brownfield Consulting Firms as stated.

#### Adoption of FY-2014 Title V Fee Recommendations

Ms. Maya Rao stated that the Air Advisory Council and staff have recommended the Title V fee for FY-2014 continue at \$36/ton of air emissions with a minimum fee of \$250. A public hearing on the FY-2014 Title V fee was held on January 17, 2013, and no comments were received. Staff provided the Commission with a copy of the transcript for review prior to the meeting. Following staff presentation and deliberation, on motion made by Mr. Dunagin and seconded by Mr. Winstead, the Commission unanimously voted to adopt the recommended fee of \$36/ton of air emissions for FY-2014 and authorized that an Order setting this fee be executed by the Executive Director.

#### Adoption of the FY-2013 Intended Use Plan, Water Pollution Control (Clean Water) Revolving Fund Loan Program

Mr. Tony Caldwell recommended adoption by the Commission of the FY-2013 Intended Use Plan. The staff provided the Commission with a document which identifies the loan funds available to our communities for the construction of wastewater infrastructure, the communities to receive these loan funds, the loan interest rate, program deadlines, and other related information. This Intended Use Plan also reflects the implementation of the remaining subsidy funding made available to "green" and "small/low income community" projects with funds provided under recent years' Federal Appropriations Acts. Public comments on the draft Intended Use Plan have been solicited through a public comment period and a public hearing held on February 20, 2013. No comments were received from the public or from EPA. Following staff presentation and deliberation, on motion made by Mr. Dunagin and seconded by Mr. Phillips, the Commission unanimously voted to adopt the FY-2013 Intended Use Plan, and to approve an order memorializing this action.

#### Briefing on the Renumbered and Reformatted Commission and Permit Board Regulations with Statutory Authorities Pursuant to the Administrative Procedures Act

Mr. Roy Furrh briefed the Commission on the amended Administrative Procedures Act ("APA") which requires a statewide administrative code and designates the Secretary of State's office as the official registrar for rules of all state agencies and the publisher of the Mississippi

Administrative Bulletin and the Mississippi Administrative Code. The APA amendments specifically require uniform formatting and numbering of all state agency regulations, including the regulations of the Mississippi Commission on Environmental Quality ("Commission") and the Mississippi Environmental Quality Permit Board ("Permit Board"). The APA amendments further require citation to statutory authorities for the regulations. In order to comply with the amended APA, the Mississippi Department of Environmental Quality ("MDEQ") staff is adjusting all of the regulations of the Commission and the Permit Board to be consistent with the Secretary of State's requirements. Changes to the regulations are not substantive and do not affect content; rather, the changes simply reflect the newly required formatting and numbering and provide recitation of statutory authorities for the regulations. MDEQ staff plans to proceed to public notice regarding the changes to the regulations in early to mid-March and hold a public hearing at MDEQ's Office at 515 East Amite in Jackson in early to mid-April. MDEQ staff plans to present the changes to the Commission regulations to the Commission for consideration at its meeting on May 23. MDEQ staff plans to present the changes to the Permit Board regulations to the Permit Board for consideration at its meeting on May 14. The changes will be proposed to be effective on July 1, 2013. The renumbered regulations will be available for public review in early March and outreach has begun in order to notify the public. Staff provided the Commission with an Index which provides a summary of the Title, Part and Chapter of the renumbered rules. This briefing was for informational purposes only, requiring no action by the Commission.

#### Briefing on the Mississippi Phosphates Facility

Chris Sanders briefed the Commission on enforcement and compliance issues at the Mississippi Phosphates facility. A joint EPA/MDEQ State inspection took place in July 2011, with a follow-up sampling event one month later. Violations were discovered that included illegal discharge of contaminated wastewater, inadequate secondary containment, acid releases to groundwater and a failed liner on the closed gypsum stack. Review of reports also revealed violations of air emission limits in sulfuric acid plants (SAP) and discharge limits from wastewater treatment. Agreed Order 5291 11 was issued to resolve air, solid waste and wastewater violations and Mississippi Phosphates was assessed a penalty of \$297,000. The facility then developed best management practices to prevent and contain contaminated wastewater discharges and corrected air emissions monitoring protocols and began properly reporting from the SAP. In addition, new concrete was poured in the SAP and Diammonium Phosphate Plant (DAP) which prevents spills and contaminated storm water from entering plant ditches and groundwater. In addition to new concrete, a larger Elementary Neutralization Unit has been installed in SAP for raising pH of wastewater prior to discharge. The facility has also repaired a tear in the liner atop the closed West Gypsum Stack. Since the sampling event in 2011 indicated groundwater contamination, EPA issued RCRA 7003 Order. The remedial plan is currently under EPA review with MDEQ to assist. In addition, enforcement discussions relating to the national initiative are ongoing. At this time MDEQ's order is resolved; however, during Hurricane Isaac, a total of 32 inches of rainfall was recorded at the facility during the storm. The excess rain led to an emergency release of untreated wastewater resulting in a fish kill in Bayou Casotte. Final resolution of this incident is under review. This briefing was for informational purposes only, requiring no action by the Commission.

#### Briefing on Nutrient Water Quality Criteria

Kim Caviness briefed the Commission on Nutrient Water Quality Criteria. MDEQ staff has been actively working to develop numeric nutrient criteria that are appropriate and protective for Mississippi's surface waters. Criteria development efforts are focused based on water body types: Streams/Rivers, Lakes/Reservoirs/Oxbows, Coastal/Estuarine Waters, and Delta Waters. Technical work has been led by staff with support from members of the MS Nutrient Technical Advisory Group (TAG). The TAG has met quarterly since May 2010. The objective of the TAG is to provide MDEQ with regional knowledge and technical expertise related to nutrients. The TAG includes representatives from various state and federal agencies as well as academic experts from universities across the state. A series of three Nutrient Criteria Stakeholder Update Sessions have been held to provide updates to stakeholders related to the ongoing technical work and to allow them to ask questions and provide feedback and suggestions. Stakeholder outreach will continue to be a priority

throughout the process and update sessions will continue on a routine basis. MDEQ staff has also been having discussions related to criteria implementation and has formed an internal Implementation Planning Team. This team is working on the criteria implementation plan, how the criteria will be put into the various MDEQ programs, and resource needs for implementation. Staff is working to develop draft criteria to present to the Commission no earlier than June 30, 2013, for all waters with the exception of Delta waters. The timeline to present the draft criteria for Delta waters to the Commission is no earlier than November 30, 2014. 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> |
|--|---------------------|
| Amite County Board of Supervisors                | \$ 25,514           |
| City of Greenville                               | 46,000              |
| City of Marks                                    | 15,000              |
| City of Natchez                                  | 25,000              |
| City of Starkville                               | 6,750               |
| City of Tchula                                   | 15,000              |
| Covington County Board of Supervisors            | 15,544              |
| Golden Triangle Solid Waste Management Authority | 37,200              |
| Hancock County Solid Waste Authority             | 19,296              |
| Harrison County Board of Supervisors             | 60,000              |
| Hinds County Board of Supervisors                | 75,000              |
| Itawamba County Board of Supervisors             | 17,018              |
| Lafayette County Board of Supervisors            | 19,966              |
| Lawrence County Board of Supervisors             | 12,864              |
| Lee County Board of Supervisors                  | 21,574              |
| Leflore County Board of Supervisors              | 30,000              |
| Noxubee County Board of Supervisors              | 12,060              |
| Panola County Board of Supervisors               | 68,955              |
| Stone County Board of Supervisors                | 13,132              |
| Sunflower County Board of Supervisors            | 15,410              |
| Three Rivers Solid Waste Management Authority    | 60,000              |
| Town of Ackerman                                 | 15,000              |
| Warren County Board of Supervisors               | 17,286              |
| Washington County Board of Supervisors           | 15,008              |
| Wayne County Board of Supervisors                | 42,018              |
| Webster County Board of Supervisors              | 11,524              |

On previous authority delegated to the Executive Director, MDEQ, the Commission was provided a listing by staff of the following solid waste planning grants that have been awarded to local governments:

| <u>County/Municipality</u>          | <u>Grant Amount</u> |
|-------------------------------------|---------------------|
| Holmes County Board of Supervisors  | \$ 31,320           |
| Simpson County Board of Supervisors | 23,904              |

On previous authority delegated to the Executive Director, MDEQ, the Commission was provided a listing by staff of the following waste tire grants that have been awarded to local governments:

| <u>County/Municipality</u>                  | <u>Grant Amount</u> |
|---|---------------------|
| Chickasaw County Board of Supervisors       | \$ 8,800            |
| Jefferson Davis County Board of Supervisors | 25,000              |
| Montgomery County Board of Supervisors      | 25,000              |
| Pearl River County Board of Supervisors     | 40,000              |
| Stone County Board of Supervisors           | 41,450              |
| Washington County Board of Supervisors      | 30,000              |

Asbestos Certifications

On previous authority delegated to the Head, Office of Pollution Control, the staff reported that 316 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 78 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 12 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 18 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, March 28, 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.

  
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VICE-CHAIRMAN

ATTEST:

  
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EXECUTIVE DIRECTOR

