



STATE OF MISSISSIPPI
SECRETARY OF STATE
ERIC CLARK

401 MISSISSIPPI STREET
POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-0136

TELEPHONE (601) 359-1350
FACSIMILE (601) 359-1499

January 13, 2004

Dr. James R. Davis
Superintendent
Hattiesburg Public School District
Post Office Box 1569
Hattiesburg, Mississippi 39403

VIA FACSIMILE 601-582-6666

RE: Kerr-McGee Creosote Clean-up
Section 16, Township 4 North, Range 13 West
Forrest County, Mississippi

Dear Dr. Davis:

Thank you for participating in the conference call, Wednesday, December 17, 2003, with your legal counsel, Assistant Superintendent, and staff from the Mississippi Department of Environmental Quality ("MDEQ"). As I am sure you can understand, it is imperative that the clean-up of any potential creosote contamination be completed as soon as possible. Completion of the culvert project for the Northeast ditch from Scooba Street to Katie Street is integral to the overall clean-up project.

As I indicated in the conference call, it is the responsibility of the Hattiesburg School District Board of Education ("the Board"), as trustee of the 16th Section Public School Trust Lands, to protect the Trust. This trustee obligation is required by virtue of statutory authority and case law. Further, the Board incurred an obligation when it participated in the settlement of its lawsuit brought against Kerr-McGee. Protection of the Trust involves ensuring the completion of the culvert project and other clean-up activities.

The Board must immediately take whatever action is necessary, including actions in a court of competent jurisdiction, to ensure that access is granted to those entities with the responsibility for cleaning up the potential creosote contamination. In particular, the Board must ensure that access is granted across the property currently occupied by Mrs. Woods, Mr. Harris, and, to the extent it does not impact railroad operations, the property leased by the Norfolk Southern Railroad. As I have explained, the Board's authority to grant access is contained in §§ 29-3-1 and 29-3-85 Miss. Code Ann. (Miss. 1972) as amended, as well as the holding in the case *Turney v. Marion County Board of Education*, 481 So.2d 770 (Miss. 1985).

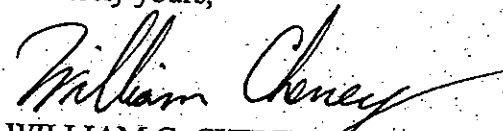
Dr. James R. Davis
January 13, 2004

Page 2

Failure by the Board to take such action as is necessary to ensure completion of the clean-up project may be seen as a willful failure to protect the Trust and could subject the Board members to personal liability pursuant to §29-3-9 Miss. Code Ann (1972), as amended.

If you have any questions or need additional information, please call me at (601) 359-6377 or e-mail me at bcheney@sos.state.ms.us.

Sincerely yours,


WILLIAM G. CHENEY JR.
Senior Attorney, Public Lands Division

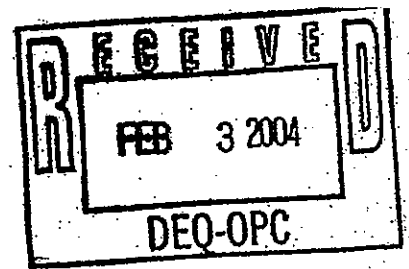
WGC/

cc:

Mr. Sam Buchanan
307 Parkdale Drive
Hattiesburg, Mississippi 39401
VIA FACSIMILE 601-582-6666

Mr. J. B. VanSlyke, Jr., Esq.
606 Mainè Street
Post Office Box 1506
Hattiesburg, Mississippi 39403
VIA FACSIMILE 601-582-6666

Miss Kelly Riley, Esq.
Senior Attorney
MDEQ
Post Office Box 20305
Jackson, Mississippi 39289-0305
VIA FACSIMILE 354-6965



STATE OF MISSISSIPPI
SECRETARY OF STATE
ERIC CLARK

401 MISSISSIPPI STREET
POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-0136

TELEPHONE (601) 359-1350
FACSIMILE (601) 359-1499

January 30, 2004

Mr. Don Barrett, Esq.
Barrett Law Firm
Post Office Box 987
Lexington, Mississippi 39095

VIA FACSIMILE 662-834-2628

RE: Kerr-McGee Creosote Clean-up
Northeast Ditch Project
Section 16, Township 4 North, Range 13 West
Forrest County, Mississippi

Dear Don:

I am in receipt of your letter of January 13, 2004, regarding the above-referenced matter. The Public Lands Division of the Secretary of State's Office is willing to offer advice and support, but we cannot draft a complaint. The responsibility for litigation lies with the Hattiesburg School District Board of Education ("the Board"). I am confident that the Board will be able to draft a complaint to resolve the issue of access to the property occupied by Mrs. Woods, Mr. Harris, and Norfolk Southern Railroad.

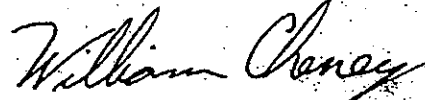
I suggest you contact Jane Raiford and determine the exact nature of the City's responsibility for the culvert project for the Northeast ditch. The culvert project was part of the remediation plan established by MDEQ and Kerr-McGee. An agreement was reached whereby the City was hired to perform the labor, since the City wanted to improve the drainage of the ditch.

The Chancery Court action I envision is a Declaratory Judgment, pursuant to Rule 57 Miss. R. Civ. P., confirming the school district's right to prevent waste and granting an easement. The action would further confirm the City's existing easement. Since the City has an existing easement, they can join as a plaintiff. If the City will not voluntarily join in the action, it can be made an involuntary plaintiff pursuant to Rule 19. I fully believe the City will complete the ditch project once access is confirmed and the protesters temporarily removed. If not, the Board might be able to look to Kerr-McGee to ensure completion of the last portion of work. Due to the construction deadline and the potential continued damage to the Trust, you might even be able to obtain a temporary restraining order pursuant to Rule 65(b) allowing the

construction crew to enter the property.

If you have any questions or need additional information, please call me at (601) 359-6377 or e-mail me at bcheney@sos.state.ms.us.

Sincerely yours,



WILLIAM G. CHENEY, JR.
Senior Attorney, Public Lands Division

WGC/

cc:

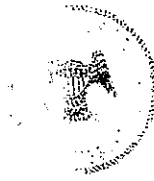
Dr. James R. Davis
Superintendent
Hattiesburg Public School District
Post Office Box 1569
Hattiesburg, Mississippi 39403
VIA FACSIMILE 601-582-6666

Mr. Sam Buchanan
307 Parkdale Drive
Hattiesburg, Mississippi 39401
VIA FACSIMILE 601-582-6666

Mr. J. B. VanSlyke, Jr., Esq.
606 Maine Street
Post Office Box 1506
Hattiesburg, Mississippi 39403
VIA FACSIMILE 601-582-6666

Miss Kelly Riley, Esq.
Senior Attorney
MDEQ
Post Office Box 20305
Jackson, Mississippi 39289-0305
VIA FACSIMILE 354-6965

Mr. Tony Russell
MDEQ
Post Office Box 10385
Jackson, Mississippi 39289-0385
VIA FACSIMILE 961-5300



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Dept of Environmental Quality
Office of Pollution Control

401 MISSISSIPPI STREET
POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-0136

STATE OF MISSISSIPPI
SECRETARY OF STATE
DELBERT HOSEMANN

TELEPHONE (601) 359-1350
FACSIMILE (601) 359-1499

December 10, 2008

Mr. Percy W. Watson, Esquire
Post Office Box 1767
Hattiesburg, Mississippi 39403-1767

VIA FACSIMILE 601-582-4293

RE: Kerr-McGee/Tronox

Dear Mr. Watson:

Attached hereto is a draft letter to the Hattiesburg School District requesting that the School Board authorize the superintendent and school board president to sign a restricted use agreement, a copy of which is also attached. As noted in the letter to Dr. Wimbish, the restrictive use agreement covers a parcel of land on which a building was built over the old site of the "Northeast Drainage Ditch," as it is called in the Kerr-McGee Remedial Action Plan. The building is currently being used as a restaurant operating as Down Home Cooking.

The Secretary of State has signed the restrictive use agreement on the advice of the MDEQ and is recommending that the Hattiesburg School District sign the agreement. I have also enclosed a copy of a letter from the MDEQ, as the State's expert, explaining that the remediation measures and the restrictions "are consistent with what MDEQ requires at sites across Mississippi when contamination cannot be removed" and "will be protective of human health and the environment."

As lawyer for the Hattiesburg School District I wanted to provide you with a copy of the draft letter and restrictive use agreement prior to its mailing. If you have any questions or need additional information, please call me at (601) 359-6377 or e-mail me at bill.cheney@sos.ms.gov.

Sincerely yours,

WILLIAM G. CHENEY, JR.
Senior Attorney, Public Lands Division

Mr. Percy W. Watson
December 10, 2008

Page 2

WGC/

cc:

Mr. Tony Russell
MDEQ
Post Office Box 10385
Jackson, Mississippi 39289-0385

Enclosures



401 MISSISSIPPI STREET
POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-0136

STATE OF MISSISSIPPI
SECRETARY OF STATE
DELBERT HOSEMANN

TELEPHONE (601) 359-1350
FACSIMILE (601) 359-1499

DRAFT

December 10, 2008

Dr. Annie P. Wimbish
Superintendent
Hattiesburg Public School District
Post Office Box 1569
Hattiesburg, Mississippi 39403

VIA FACSIMILE 601-582-6666

RE: Kerr-McGee Creosote Clean-up
Northeast Ditch Project
Section 16, Township 4 North, Range 13 West
Forrest County, Mississippi

Dear Dr. Wimbish:

As you are aware, on January 29, 2003, the Hattiesburg School District settled litigation that it had brought against Kerr-McGee Chemical LLC (now "Tronox") for creosote contamination on 16th Section Public School Trust Land under the school district's control. As a condition of the settlement, Tronox instituted a Remedial Action Plan to clean up the property where the former facility was located. Part of the Remedial Action Plan involved what is referred to as the "Northeast Drainage Ditch." This ditch runs in a northeast direction from approximately Scooba Street, crossing Florence Street, Bertha Street, and MLK Avenue.

The Mississippi Department of Environmental Quality ("MDEQ") has stated that the plan is almost complete. To bring this project to completion the MDEQ has asked the Secretary of State and the Hattiesburg School District, as trustees of the 16th Section Land, and Tronox to enter into a restrictive use agreement for a parcel of land on which a building was built over the old ditch. The restrictive use agreement is standard in this type of situation where there is potential contamination under a building or "capped site." The building will still be able to be used for its current use as a restaurant operating as Down Home Cooking.

The Secretary of State has signed the restrictive use agreement on the advice of the MDEQ and is recommending that the Hattiesburg School District sign the agreement. A copy of the agreement is attached to this letter. Also attached is a letter from the MDEQ, as the State's expert, explaining that the remediation measures and the restrictions "are consistent with what MDEQ requires at sites across Mississippi when contamination cannot be removed" and "will be

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protective of human health and the environment.” ←

The Hattiesburg School District, in its role as trustee of 16th Section School Trust Land, commenced litigation to protect the Trust and recover damages for the creosote contamination. As such, the school district and school board have a duty to see that the Remedial Action Plan is complete. I am requesting that the Hattiesburg School Board authorize you and the school board president to sign the restrictive use agreement.

If you have any questions or need additional information, please call me at (601) 359-6377 or e-mail me at bill.cheney@sos.ms.gov.

Sincerely yours,

DRAFT

WILLIAM G. CHENEY, JR.
Senior Attorney, Public Lands Division

WGC/

cc:

Mr. Clyde Bryant
500 Broadway Drive
Hattiesburg, Mississippi 39401
VIA FACSIMILE 601-582-6666

Mr. Roy Furrh
General Counsel
MDEQ
Post Office Box 2261
Jackson, Mississippi 39225-2261
VIA FACSIMILE 601-354-6965

Mr. Tony Russell
MDEQ
Post Office Box 2261
Jackson, Mississippi 39225-2261
VIA FACSIMILE 601-961-5300

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Mississippi Department of Environmental Quality

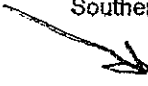
NOTICE OF LAND USE RESTRICTIONS

This Notice of Land Use Restrictions has been developed with regard to property located at Scooba Street as shown in the attached survey plat. This property, hereafter referred to as the "Site," is situated in Section 16, Township 4 North, Range 13 West, Forrest County, Mississippi, and being more particularly described by metes and bounds as follows, to-wit:

A part of Lots 1,2,3 & 4 of Block 3 of the D. D. McInnis Third Survey or Addition to the City of Hattiesburg, Mississippi, and being more particularly described as follows:

Commence at the Northwest corner of said Lot 1 of Block 3 of the D. D. McInnis Third Survey or Addition to the City of Hattiesburg, Mississippi, to and for a Point of Beginning; thence run North 45 degrees 00 minutes 00 seconds East for 64.31 feet, along the Northeast margin line of Eastside Avenue; thence run South 45 degrees 13 minutes 16 seconds East for 11.20 feet, thence run South 44 degrees 46 minutes 56 seconds West for 66.68 feet, to the Northwest margin line of Scooba Street; thence run North 45 degrees 00 minutes 00 seconds West for 111.43 feet, along said Northwest margin line of Scooba Street, back to the Point of Beginning, comprising 0.17 acres.

Commencing at the Northwesterly most corner of the above said Lot 1, Block 3; thence North 45°00' East and along the Southerly margin of Eastside (Hall) Avenue 64.31 feet to the Point of Beginning; thence continue North 45°00' East and along the Southerly margin of said Eastside Avenue 154.76 feet to the Westerly margin of an alley; thence South 45°00'08" East and along the said Westerly margin 199.43 feet (record 200 feet) to the Southerly line of the above said Lot 4; thence South 45°00' West and along said Southerly line 150.68 feet; thence North 46°10'26" West 199.48 feet to the Point of Beginning.

 The Restricted Use Areas of the Site are contaminated with creosote compounds at levels in excess of the Target Remediation Goals (TRGs) as established by the Mississippi Department of Environmental Quality (MDEQ). In order to protect public health and the environment, certain restrictions must be placed on the use of the Restricted Areas of the Site.

The following is a listing of all restrictions for the Restricted Areas of the Site:

1. There shall be no excavating, drilling or other activities to depths that could create exposure to contaminated media without approval from MDEQ;
2. The groundwater at the Site shall not be used, unless otherwise approved by MDEQ;
3. No wells shall be installed without prior approval from MDEQ.

Prior to executing any deed or other instrument conveying an interest in the Restricted Areas of the Site, the following conditions must be met:

1. Any conveyance of the Restricted Areas of the property must contain as covenants the restrictions listed above with a statement that the covenants run with the land and continue into perpetuity unless otherwise ordered by the Mississippi Commission on Environmental Quality;
2. Notice must be provided to MDEQ at least 30 days prior to any property transaction involving the Site; and
3. Prior to any change in use of the Site or any portion of the Site, notice shall be given to the MDEQ.

This Notice may be executed in counterparts.

The parties that have a legal or equitable surface interest in the Site follow:

1. Secretary of State, State of Mississippi as 16th Section Public School Trust Lands statutory supervisory trustee
2. Hattiesburg Public School District
3. Tronox, LLC

Tronox, LLC agrees to indemnify, defend, protect and hold the Secretary of State, State of Mississippi as 16th Section Public School Trust Lands statutory supervisory trustee and Hattiesburg Public School District against all claims, demands, causes of action and contentions in connection with the execution of this Notice.

COUNTY OF FORREST

Executed, this the 5th day of November, 2008.

C. Delbert Roseman, Jr.
Secretary of State
State of Mississippi

STATE OF MISSISSIPPI
COUNTY OF HINDS

Personally appeared before me, the undersigned authority in and for the said county and state, on this the 5th day of November, 2008, within my jurisdiction, the within named, C. Delbert Roseman, Jr., who acknowledged that he is Secretary of State of the State of Mississippi and that in said representative capacity he executed the above and forgoing instrument for and on behalf of the State of Mississippi, after first having been duly authorized so to do.



Maria Wilton Iverson
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

Executed, this the 10 day of NOVEMBER, 2008.

A. Keith Watson
Tronox, LLC

STATE OF Oklahoma
COUNTY OF Oklahoma

This day personally appeared before me, the undersigned authority in and for the state and county aforesaid, the within named A. Keith Watson, who acknowledged that he is Project Manager of Tronox, LLC, a Delaware limited liability company, and that for and on behalf of said limited liability company, and after being duly authorized by said corporation to do so, he executed, signed and delivered the foregoing Notice of Use Restrictions on the day and year therein mentioned and for the purposes therein expressed.

Given under my hand and official seal of office this the 10 day of November, 2008.



Penelope Cheatham
NOTARY PUBLIC

MY COMMISSION EXPIRES: 11/24/11

COUNTY OF FORREST

Executed, this the _____ day of _____, 2008.

President
Hattiesburg Public School District

Superintendent
Hattiesburg Public School District

STATE OF MISSISSIPPI
COUNTY OF FORREST

This day personally appeared before me, the undersigned authority in and for the state and county aforesaid, the within named _____ and _____ who acknowledged that they are School Board President and Superintendent of Schools respectively, of Hattiesburg Public School District, Forrest County, Mississippi, and that for and on behalf of Hattiesburg Public School District, and after being duly authorized by said Hattiesburg Public School District to do so, they executed, signed and delivered the foregoing Notice of Use Restrictions on the day and year therein mentioned and for the purposes therein expressed.

Given under my hand and official seal of office, this the _____ day of _____, 2008.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____



ASHFORD

SCOOBA STREET

EASTSIDE

SCOOBA STREET

FLORENCE

(BOB) H.P.

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