



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
GARY C. RIKARD, EXECUTIVE DIRECTOR

June 11, 2019

CERTIFIED MAIL #7012 2920 0000 4177 0941

Mr. Greg Hust, Plant Manager
First Chemical Corporation
P. O. Box 1005
Pascagoula, Mississippi 39568

**Re: First Chemical Corporation
Agreed Order No. 6951 19**

Enclosed you will find a copy of Agreed Order No. 6951 19, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Gary Rikard, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Accounts Receivable at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Felisa Keyes at (601) 961-5319.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Aultman".

Tim Aultman, P.E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Felisa Keyes

Agency Interest No. 1477
ENF20190001

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6951 19

FIRST CHEMICAL CORPORATION
P.O. BOX 7005
PASCAGOULA, MISSISSIPPI 39568-7005

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and First Chemical Corporation, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated September 5, 2017, Respondent was contacted by Complainant and notified of the following violations at 1001 Industrial Road, Pascagoula, Mississippi in Jackson County:

- A. The facility failed to conduct NOx and CO Relative Accuracy Test Audits (RATAs) for Emission Point AA-009 (Incinerator) in 2016. This is a violation of Permit Condition 5.B.2 and 5.B.3 of the facility's Title V Operating Permit No. 1280-00022 which requires the facility to conduct annual RATAs per 40 CFR Part 60, Appendix F and 40 CFR Part 63, Subpart EEE Appendix B, respectively.

The facility conducted the annual NOx and CO RATAs on July 12, 2017.

- B. The facility failed to conduct the NOx RATA for Emission Point AO-001 (Acid Plant) in 2016. This is a violation of Permit Condition 5.B.13. of the facility's Title V

Operating Permit No. 1280-00022 which requires the facility to conduct an annual RATA per 40 CFR Part 60, Appendix B, Specification 2.

The facility conducted the annual NOx RATA on April 18, 2017.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a total civil penalty in the amount of \$84,000.00. MDEQ agrees to grant Respondent credit in the amount of \$75,000.00 toward the payment of the total civil penalty of \$84,000.00 in accordance with the provisions of this Agreed Order and Memorandum of Agreement between Complainant, Respondent, and Walthall County School District. Respondent shall pay \$9,000.00 of this total civil penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee (effective date). The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality

Attn: Accounts Receivable

P.O. Box 2339

Jackson, MS 39225

- B. In accordance with the provisions of this Agreed Order and the Memorandum of Agreement ("MOA") between Complainant, Respondent, and the Walthall County School District, Complainant shall allow Respondent credit as follows toward payment of the penalty. Within forty-five (45) days after the Effective Date, Respondent shall pay, by certified check or money order, \$75,000.00 to the Walthall County School District in accordance with the terms and conditions of the MOA. The Walthall County School District shall use these funds for purchasing five school buses which meet the same requirements as those purchased under MDEQ's Diesel School Bus Replacement Program ("DSBRP"). Within ten (10) days after making the payment to the Walthall County School District in this subparagraph, Respondent

shall provide MDEQ with written proof of such payment.

- C. If Respondent fails to make the payment as described in paragraph 2.A. and 2.B. above or should the amount necessary for the Walthall County School District's purchases be less than \$75,000.00, any balance remaining of the civil penalty shall be immediately due and payable to MDEQ.
- D. Respondent further understands and agrees that as part of the referenced settlement, Respondent shall comply with the following:
 - a. Any public statement, oral or written, in print, film or other media, made by Respondent referring to the payments described in paragraphs 2.A. and 2.B. above shall include the following language: *"This contribution was made in connection with the settlement of an environmental enforcement action taken by the Mississippi Department of Environmental Quality."*
 - b. Respondent shall not deduct Supplemental Environmental Project expenditures from its state or federal income taxes or receive any state or federal credit for these expenditures as current operating expenses in 2019. Respondent may capitalize the SEP expenditures.

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

4.

The parties agree that, by entering into this Agreed Order and agreeing to the terms and conditions set forth herein, Respondent does not admit any of the allegations listed above and nothing contained herein shall be in any way construed as an admission of liability by Respondent.

Without admitting any liability, Respondent consents to entry of this Agreed Order, which the parties agree shall serve as full resolution of the violations alleged above. The parties further agree that the Commission continues to assert that the matters set forth above were violations of the

environmental laws, regulations and/or permits applicable to Respondent.

5.


Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

6.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right.

ORDERED, this the 9th day of JUNE, 2019.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
GARY C. RIKARD
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 7th day of May, 2019.

FIRST CHEMICAL CORPORATION

BY: Greg Hust

TITLE: Plant Manager

STATE OF Mississippi

COUNTY OF Jackson

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Greg Hust who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the Plant Manager of First Chemical Corporation and is authorized to sign and enter this Agreement.



SWORN AND SUBSCRIBED BEFORE ME, this the 7th day of May, 2019.

Cheri K Brown
NOTARY PUBLIC

My Commission expires: Feb. 22, 2022

**MEMORANDUM OF AGREEMENT BETWEEN MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL QUALITY,
FIRST CHEMICAL CORPORATION, AND
WALTHALL COUNTY SCHOOL DISTRICT**

Background. On September 5, 2017, the Mississippi Department of Environmental Quality (“MDEQ”) initiated an administrative enforcement action against First Chemical Corporation for violations of the Title V Operating Permit No. 1280-00022. As part of the settlement and resolution of that enforcement action, MDEQ has agreed to allow First Chemical Corporation to pay \$75,000.00 to the Walthall County School District and receive credit towards the agreed upon civil penalty. MDEQ now seeks to ensure that the Walthall County School District expends the funds for the purpose set forth below.

Section 1. Parties to the Agreement: The parties to this Memorandum of Agreement (“MOA”) are MDEQ, First Chemical Corporation, and the Walthall County School District.

Section 2. Purpose of the Agreement: The purpose of this agreement is to ensure the Walthall County School District expends the funds received from First Chemical Corporation for the purchase of five school buses which meet the same requirements of those purchased under MDEQ’s Diesel School Bus Replacement Program (“DSBRP”) as required by Agreed Order No. 6951-19.

Section 3. Responsibilities of First Chemical Corporation: First Chemical Corporation shall make payments to the Walthall County School District in the amount of \$75,000.00 after the execution of this MOA and in accordance with the Agreed Order as Section 5 of this MOA.

Section 4. Responsibilities of Walthall County School District: The Walthall County School District shall expend the funds received from First Chemical Corporation to replace existing school buses with the purchase of five new school buses meeting the diesel emission reduction requirements as those purchased under MDEQ’s DSBRP. The Walthall County School District shall notify MDEQ’s Air Division to coordinate an observer to confirm the Walthall County School District makes five existing school buses inoperable. The Walthall County School District shall provide

MDEQ with a copy of an Idle Reduction Policy which has been adopted by the School Board of the Walthall County School District. Should the Walthall County School District fail to expend the funds received from First Chemical Corporation or any portion of the funds as required by this MOA, the Walthall County School District shall remit to MDEQ the portion of the funds not spent in accordance with this MOA, and any such funds remitted to MDEQ shall be considered a penalty collection and deposited into the Pollution Emergency Fund pursuant to Miss. Code Ann. § 49-17-43(6).

Section 5. Responsibilities of MDEQ: As consideration for the performance of this MOA, MDEQ agrees to grant First Chemical Corporation credit in the amount of \$75,000.00 toward the payment of a total civil penalty of \$84,000.00 for the violations cited in MDEQ's Notice of Violation dated September 5, 2017. This concession by MDEQ shall also be embodied in an Agreed Order between MDEQ and First Chemical Corporation.

Section 6. Reporting and Certification Requirements: First Chemical Corporation shall submit to MDEQ documentation (such as purchase orders, receipts, etc.) reflecting that it gave the funds to the Walthall County School District and that these schools, in turn, used the funds in accordance with this MOA once the funds have been fully expended. First Chemical Corporation shall submit a certification signed by both First Chemical Corporation and the Walthall County School District that the funds were transferred and expended in accordance with the terms of this MOA. It shall be the responsibility of the Walthall County School District to timely sign and return the certification to First Chemical Corporation as required by this section.

Section 7. Period of Performance: The period of performance for this MOA shall be one hundred eighty (180) days from the date the MOA is executed by all parties.

Section 8. Nullification of this Agreement: The parties to this MOA contemplate, and the MOA embodied in this document presumes, the issuance by MDEQ of an Agreed Order associated with, and referencing, this MOA and requiring First Chemical Corporation to make the payment described herein. If, for any reason, the MDEQ and First Chemical Corporation are unable to settle the

enforcement action referenced above as contemplated by this MOA and/or MDEQ, for any reason, does not issue the contemplated Agreed Order, this MOA, and any obligations described herein, shall be null, void and without effect.

WITNESS OUR SIGNATURES:

WALTHALL COUNTY SCHOOL DISTRICT

By: Wade L. Carney (Supt.) Edlridge Bgd (Pres. Board)

Printed name: WADE L. CARNEY

Title: Supt. of Ed.

Date Executed: May 21, 2019

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Gary C. Rikard

Gary C. Rikard, Executive Director

Date Executed: 6/4/19

FIRST CHEMICAL CORPORATION

By: Greg Huest

Printed name: Greg Huest

Title: Plant Manager

Date Executed: 5-7-2019