



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

## Brownfield: Mississippi Commission on Environmental Quality and JEFFL, Inc. Enter into Brownfield Agreement Order

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The Mississippi Commission on Environmental Quality ("MCEQ") and JEFFL, Inc. ("JEFFL") entered into a July 24th Brownfield Agreement Order ("BAO"). See Order No. 7533 25.

The BAO addresses a tract of land located in Bolivar County, Mississippi.

The tract of land is referred to in the BAO as the Agricultural Equipment Sales and Service Site ("Site"). The Site is stated to be a Brownfield property as defined in Miss. Code Ann § 49-35-1(2). JEFFL submitted an application for the Site to participate in the Mississippi Brownfields Program.

The term Brownfield often refers to a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance or contaminant.

Various federal and state programs use risk-based corrective action remediation standards to tailor clean-up levels according to site-specific factors. Such programs often take into account criteria such as to what extent the site is characterized and/or future land use. Typically, superimposed upon these various procedures are site-specific analyses and a requirement that the standards should be protective of public health and the environment.

Agencies may be willing in some circumstances to provide blessing (subject to certain caveats) of a site's conditions if they deem contaminants adequately delineated and/or isolated from potential exposure. The approval of site conditions will likely be based on a combination of acceptability under applicable screening levels and/or whether the property uses are compatible with these conditions. The incorporation of enforceable institutional controls (i.e., deed restrictions, restrictive covenants or easements, or controls such as barriers, pavement in a certain area, etc.) might be used to ensure continued adherence to restrictions by the current and future real property owners.

The Mississippi Site is stated to be the current location of multiple businesses, that include retail and previously operated as an agricultural equipment sales and service location. Construction materials in the building are stated to have been determined to contain asbestos-containing materials in excess of the United States Environmental Protection Agency ACM threshold. Consequently, remediation of the Site is stated to be necessary.

MCEQ staff is stated to have evaluated the BAO and believes, that within the conditions and restrictions contained, that the Site will be in compliance with all applicable state and federal laws and standards and will be protective of public health and the environment once the required activities are completed.

Paragraph 4 of the BAO provides a description of all remediation requirements and/or obligations to be conducted for the Site.

The BAO also provides that upon execution of the document that the Brownfield parties shall be relieved of all liability to all persons other than the United States for:

1. Remediation of the Brownfield Agreement Site other than the remediation required by this Agreement; and
2. All costs reasonably related to the remediation other than the remediation and costs required by the Agreement or this Act. It is understood and agreed that this Agreement shall not affect the right of any person to seek relief against any Parties to the Agreement who may have liability with respect to the Brownfield Agreement Site, except as provided in this paragraph.

Nevertheless, the BAO states that it shall not affect the right of any person to seek relief against any parties to the agreement who may have liability with respect to the Site, except as provided in the paragraph. In addition, the BAO outlines the persons to which the liability protection under Paragraph 10 applies.

A copy of the BAO can be downloaded [here](#).