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Waste Disposal/Alleged Future Damages: Federal Court (Mississippi) Addresses Landfill Owners' Judicial Action Against Generator

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A United States Federal District Court (N.D. Miss.) ("Court") addressed in a February 4th Memorandum Opinion an issue arising out of the past disposal of remediated soils and associated materials into a landfill. *See LEFLORE COUNTY BOARD OF SUPERVISORS v. MERITOR, INC., ET AL*, 2026 WL 297969.

The issue considered is whether the generator of the referenced soils and associated materials could be held liable for potential investigative and/or remedial expenses to be incurred by the landfill because of the alleged mischaracterization of the waste.

Meritor, Inc. ("MI") disposed of approximately 7,243 tons of buff-compound soils and associated materials ("waste") from the Moose Lodge Road Disposal Area ("MLRDA") in Grenada, Mississippi. The disposal is stated to have occurred pursuant to a Removal Work Plan prepared by MI's consultant. Further, the Removal Workplan was reviewed and approved by the Mississippi Department of Environmental Quality ("MDEQ").

MDEQ issued a written a "Non-Hazardous Determination" concluding that the buff compound and contaminated soils did not contain listed hazardous waste and could be managed as nonhazardous "special waste". provided they did not exhibit a hazardous characteristic. Pursuant to the MDEQ determination and MI's own TCLP testing, the waste was disposed into the Leflore County landfill operated by Waste Connections, Inc.

Approximately 20 years later, the Leflore County Board of Supervisors ("Leflore County") filed suit in federal court alleging that the waste was hazardous. As a result, Leflore County alleged that MI's disposal of the waste:

... caused the County to incur—or in the future might incur—investigative and remedial expenses.

The causes of action asserted by Leflore County included:

- Negligence.
- Public nuisance.
- Trespass.

MI asserted various grounds for summary judgment such as:

- Failure to exhaust administrative remedies before MDEQ.
- Absence of evidence establishing a hazardous disposal.

- Speculative nature of Leflore County's damages.

The Court holds that the threshold defect in Leflore County's judicial action is the absence of proof of legally cognizable damages. The Court held that there is a requirement to:

- Show an actual, present injury.
- Harm that might exist/arise in the future is insufficient.

Leflore County's alleged injury is characterized by the Court as:

... not contamination, property damage, regulatory liability, or public health impact.

Further, the allegation that the prior disposal contained hazardous constituents or an investigation/remediation might have to be undertaken is characterized by the Court as "entirely hypothetical."

The Court bases this conclusion on the following:

- Absence of sampling, testing, or subsurface investigation at the landfill directed at the disposed material and inability to identify the location of the material within the landfill footprint.
- Absence of regulatory consequence since MDEQ has issued no notice of violation, directive, compliance order, or request for additional investigation/corrective action.
- No evidence of property damage or loss of use as the landfill continues to operate with the same capacity.
- No evidence of diminution in value, nor have any third-party claims been asserted against Leflore County, meaning there is no present economic injury.

Leflore County's claim is also stated to fail because of the Court's holding that even if damages could be established the record contains no evidence that the waste disposed of by MI was hazardous waste or otherwise toxic. It cites various analytical data that had been generated prior to the disposal and MDEQ's Non-Hazardous Determination. Further, the landfill operator is noted to have accepted the waste as compliant special waste.

The absence of evidence of toxicity and what is described as substantial evidence of non-hazardous classification approved by the responsible regulatory agency is held by the Court to be an absence of proof and fatal to Leflore County's claims.

The Court also held that Leflore County's judicial action is barred by the doctrine of administrative exhaustion. Its claims are characterized as seeking a judicial finding that the material was hazardous or that additional remedial action is required. These questions are deemed to fall squarely within MDEQ's technical and regulatory purview. Therefore, the Court states that Leflore County's claims:

... depend on reexamining an agency-approved environmental determination, the administrative process must be invoked before judicial relief is sought.

Leflore County's argument that exhaustion is unnecessary because it seeks common-law damages which cannot be awarded by MDEQ is rejected. This is based on the determination that the alleged wrong cannot be established without determining that MDEQ's waste classification and approval of the disposal was erroneous or inadequate. The request for monetary damages does not eliminate the need for the agency to address the underlying regulatory question in the first instance.

MI's Motion for Summary Judgment is granted.

A copy of the Opinion can be found [here](#).