

ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

LOCATION - SUBJECT Opie McPherson  
Docket No. 95-002-NOV

MINUTE ORDER NO. 96- 21

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On June 6, 1995, the Administrative Hearing Officer, Michael O'Malley, entered a Recommended Decision (Order No. 4) in a case styled: In the Matter of Opie McPherson, Docket No. 95-002-NOV.

Order No. 4 granted the Arkansas Department of Pollution Control and Ecology's ("Department") Motion for Summary Judgment. Order No. 4 also ordered McPherson to pay a civil penalty in the amount of Five Thousand Dollars (\$5,000) to the Department within thirty (30) days after the Arkansas Pollution Control and Ecology Commission's ("Commission") final approval of Order No. 4. On July 28, 1995, the Commission approved Order No. 4 through the entry of Minute Order No. 95-59.

On April 9, 1996, Randall Mathis, Director of the Department, requested that the Commission amend Minute Order No. 95-59. The Department and McPherson agree that McPherson will abate and dispose of the disturbed asbestos in accordance with all applicable Department and Federal regulations within thirty (30) days after final Commission approval of an amended Minute Order. Due to extraordinary circumstances surrounding Mr. McPherson's health, the Department seeks Commission approval to not pursue collection of the civil penalty imposed in Order No. 4. The Department states that the main priority is to correctly abate and dispose of the disturbed asbestos in order to protect human health and the environment.

Based on the Director's recommendation and the extraordinary circumstances presented in this case, the Commission finds that Minute Order No. 95-59 should be, and is, amended. The Commission waives the Five Thousand Dollar (\$5,000) civil penalty only if McPherson properly abates and disposes of the disturbed asbestos within thirty (30) days of the date of this Minute Order or within a reasonable time as determined by the Department. In the event McPherson does not abate and dispose of the disturbed asbestos, the Department is authorized to pursue collection of the civil penalty.

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SUBMITTED BY: R. Mathis

PASSED: April 26, 1996