



STATE OF MISSISSIPPI
TATE REEVES
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHRIS WELLS, EXECUTIVE DIRECTOR

August 27, 2024

CERTIFIED MAIL # 7019 1120 0000 4785 6285

Mr. William Edward Boardwine
Mississippi Silicon LLC, Burnsville Silicon Manufacturing Plant
80 County Road 210
Burnsville, Mississippi 38833

**Re: Mississippi Silicon LLC, Burnsville Silicon Manufacturing Plant
Agreed Order No. 7349 24**

Dear Mr. Boardwine:

Enclosed you will find a copy of Agreed Order No. 7349 24, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Chris Wells, 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 Geoffrey Martin at (601) 961-5024.

Sincerely,

Michelle Clark, P.E., BCEE, Chief
Environmental Compliance and Enforcement Division

Enclosure
cc: Geoffrey Martin

Agency Interest No. 64456
ENF20240001

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 7349 24

MISSISSIPPI SILICON LLC
80 COUNTY ROAD 210
BURNSVILLE, MISSISSIPPI 38833

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 Mississippi Silicon LLC, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated May 4, 2017, Respondent was contacted by Complainant and notified of the following alleged violations of Air Construction Permit No. 2640-00060 (“Permit”), discovered during a Compliance Evaluation Inspection at its Burnsville Silicon Manufacturing Plant (“Facility”) on March 9, 2017:

- A. Respondent removed panels from the sides of the furnace building allowing emissions to exit the building in violation of Condition I.4 which states, “The air pollution control facilities shall be constructed such that diversion from or bypass of collection and control facilities is not needed except as provided for in Regulation APC-S-1, “Air Emission Regulations for the Prevention, Abatement and Control of Air Contaminants”, Section 10.”
- B. Respondent failed to demonstrate compliance with the facility-wide Hazardous Air

Pollutant (HAP) limitations at Emission Point AA-000 in violation of Condition IV.12 which states, "For Emission Point AA-000 (Entire Facility), the permittee shall determine the HAP (Individual and Combined) emission rates as determined for each consecutive 12-month period by utilizing data obtained from Stack/Performance Testing, Natural Gas Usage Records, and any other data necessary to demonstrate compliance with Condition III.9 of the federally enforceable permit herein."

- C. Respondent failed to report compliance with the facility-wide single and combined HAP limitations on the facility's semiannual monitoring reports in violation of Condition V.4 which states, "For Emission Point AA-000 (Entire Facility), the permittee shall submit semi-annual records to be able to demonstrate sufficiently that the permittee is in compliance with the facility wide and individual BACT limits for NO_x, CO, SO₂, VOC, PM/PM₁₀/PM_{2.5}, HAP and GHG (as CO₂e) for the previous consecutive 12-month period of the federally enforceable permit herein."
- D. Respondent exceeded the limestone throughput rate limitation of 183 tons per year (tpy) in violation of Condition III.16 which states, "For emission point AA-104 (Limestone Storage Pile Material Handling), the permittee shall limit the Material Throughput Rate to no more than 183 tpy as determined for each consecutive 12-month period."
- E. Respondent failed to install a continuous pressure drop monitor at each baghouse in violation of Condition IV.13 which states, "For each baghouse, the permittee shall install, maintain, and operate a continuous pressure drop monitor to monitor and record the differential pressure at least every 15 minutes."
- F. Respondent exceeded the 3-hour rolling average Nitrogen Oxides (NO_x) emissions limitation of 45.0 pounds per ton (lbs/ton) of Silicon produced at Emission Point AA-201 in violation of Condition III.22 which states, "For Emission Point AA-201 (Submerged Arc Furnace), the permittee shall limit NO_x emissions to no more than 45.0 lbs/ton as determined by a 3-hr rolling average period of Silicon produced (BACT for NO_x)."
- G. Respondent exceeded the Carbon Monoxide (CO) emissions limitation in violation of Condition III.23 which states, "For Emission Point AA-201 (Submerged Arc Furnace), the permittee shall limit CO emissions to no more than 34.0 lbs/ton, as

determined by a 3-hr rolling average period of Silicon produced, and Utilize Good Combustion and Operation Practices and Semi-Enclosed Furnaces (BACT for CO).”

- H. Respondent exceeded the Sulfur Dioxide (SO₂) emissions limitation in violation of Condition III.25 which states, “For Emission Point AA-201 (Submerged Arc Furnace), the permittee shall limit SO₂ emissions to no more than 52.0 lbs/ton, as determined by a 3-hr rolling average period of Silicon produced, and Utilize Low Sulfur Content Material where technically feasible.”
- I. Respondent exceeded the 3% opacity limitation at Emission Point AA-201 (Submerged Arc Furnace) and failed to report the excess emissions in violation of Condition III.28 of the permit which states, “For Emission Point AA-201 (Submerged Arc Furnace), the permittee is subject to New Source Performance Standards for Ferroalloy Production, specifically 40 CFR 60 – Subpart Z. and report as excess emissions all six-minute periods in which the average opacity is 3 percent or greater leaving the control device (i.e., fabric filter) as required by the federally enforceable PSD Construction herein.

By letter dated April 26, 2018, Respondent was contacted by Complainant and notified that the following alleged violation, previously cited in a Notice of Violation letter dated May 4, 2017, had been rescinded:

- A. Respondent removed panels from the sides of the furnace building allowing emissions to exit the building in violation of Condition I.4 which states, “The air pollution control facilities shall be constructed such that diversion from or bypass of collection and control facilities is not needed except as provided for in Regulation APC-S-1, “Air Emission Regulations for the Prevention, Abatement and Control of Air Contaminants”, Section 10.”

Additionally, Complainant asserted that emissions from the submerged arc furnaces, specifically, but not necessarily limited to, some of the emissions associated with tapping, are bypassing Particulate Matter (PM) Control Equipment and bypassing NO_x, CO, SO₂, and Opacity Monitoring Equipment. As a result, Respondent was notified of the following additional alleged violations of the Permit:

- J. Condition IV.16 which states, “For Emission Point AA-201 (Submerged Arc Furnaces), the permittee shall install and operate a Continuous *Emissions Monitoring*

(CEM) System on the furnace baghouses for monitoring NOx, CO, and SO2 immediately upon operation of the furnaces...”

- K. Condition IV.17 which states, “For Emission Point AA-201 (Submerged Arc Furnaces), the permittee is subject to 40 CFR 60.264 and shall comply with the following emissions monitoring requirements for demonstrating compliance: (a) The permittee is subject to the provisions of this subpart shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device(s)...”
- L. Condition V.7 which states, “For AA-201 (Submerged Arc Furnaces), the permittee shall submit semi-annual records to be able to demonstrate sufficiently that the permittee is in compliance with the NOx, CO and SO₂ emission rates for the previous consecutive 12-month period...”
- M. Condition V.8 which states, “For Emission Point AA-201 (Submerged Arc Furnaces), the permittee shall submit semi-annual records to be able to demonstrate sufficiently that the permittee is in compliance with VOC and PM/PM₁₀/PM_{2.5} emission limitations for the previous consecutive 12-month period...”

By letter dated September 30, 2020, Respondent was contacted by Complainant and notified of the following alleged violations of the Permit, discovered due to a Compliance Evaluation Inspection at the Facility on September 18, 2019:

- N. Respondent failed to timely perform Relative Accuracy Test Audits (RATAs) on the CEM Systems required to be installed on Emission Point AA-201 (Submerged Arc Furnaces) in violation of Condition IV.16 which states, “In lieu of the requirements of 40 CFR Part 60, Appendix F, 5.1.1, 5.1.3, and 5.1.4, the permittee may conduct either a Relative Accuracy Audit (RAA) or a Relative Accuracy Test Audit (RATA) on each CEMs at least once every three (3) years.” The initial RATA occurred on February 16, 2016; therefore, the subsequent RATA was due no later than February 16, 2019. MS Silicon performed the subsequent RATA on March 19-20, 2019, approximately 31 days late.
- O. Respondent failed to submit annual certifications of compliance for MACT Subpart YYYYYY for calendar years 2017, 2018, and 2019 in violation of Condition V.13

which states, "For Emission Point AA-000 (Entire Facility), the permittee shall comply with 40 CFR 63.11529(c) and submit an annual certification of compliance..." (40 CFR 63.11529(c)) – facility must submit annual certifications of compliance for MACT Subpart YYYYYY. MDEQ received an annual certification for 2016 but has not received certifications for 2017, 2018, or 2019.

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 civil penalty in the amount of \$500,000.00. Respondent shall pay this penalty as follows:

1. Respondent shall pay to MDEQ by certified check or money order a penalty in the amount of \$400,000.00 within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee (the "Effective Date"). The payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Accounts Receivable
P.O. Box 2339
Jackson, MS 39225

2. In accordance with the provisions of this Agreed Order between Complainant and Respondent, Complainant shall allow Respondent credit as follows toward payment of the civil penalty in the amount of \$100,000.00:

- i. Within forty-five (45) days of the Effective Date, Respondent shall, as full and complete satisfaction of a Supplemental Environmental Project (SEP), submit to MDEQ a contribution to the Mississippi Diesel School Bus Replacement Program by certified check or money order in the amount of \$100,000.00 made payable to MDEQ. The contribution shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Accounts Receivable
P.O. Box 2339

Jackson, MS 39225

3. Should Respondent fail to comply with Section 2.A.2. of this Agreed Order, \$100,000.00 shall be immediately due and payable to MDEQ as a civil penalty.
- B. In accordance with the provisions of this Agreed Order between Complainant and Respondent, Complainant asserts that the contribution described in Section 2.A.2. will be used by the Mississippi Diesel School Bus Replacement Program to implement diesel emissions reduction projects in accordance with the Diesel Emissions Reduction Act (DERA) of 2023.
- C. Respondent further understands and agrees that as part of the referenced settlement, Respondent shall comply with the following:
 1. Any public statement, oral or written, in print, film or other media, made by Respondent referring to the payment described in Section 2.A.2. of this Agreed Order 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.”*
 2. Respondent shall not deduct any 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 2024. 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.

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.

5.

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 the 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.

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 27th day of August, 2024.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

BY: *Chris Wells*
CHRIS WELLS
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 23 day of August, 2024.

MISSISSIPPI SILICON LLC

BY: *William E. Boardwine*
WILLIAM EDWARD BOARDWINE
CHIEF EXECUTIVE OFFICER

STATE OF Mississippi
COUNTY OF Tishomingo

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named WILLIAM EDWARD BOARDWINE, who first being duly sworn, did state upon his oath and acknowledge to me that he is the CHIEF EXECUTIVE OFFICER of MISSISSIPPI SILICON LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 23 day of August, 2024.

Rhonda S. Price
NOTARY PUBLIC

My Commission expires: 04/23/2026

