

IN THE CHANCERY COURT OF RANKIN COUNTY, MISSISSIPPI

GOLD COAST COMMODITIES, INC.

APPELLANT

VS.

CAUSE NO. 21-717

MISSISSIPPI ENVIRONMENTAL QUALITY PERMIT BOARD

APPELLEE

**MEMORANDUM BRIEF IN SUPPORT OF APPELLANT'S  
MOTION TO ALTER OR AMEND JUDGMENT**

Appellant Gold Coast Commodities, Inc. (“Gold Coast”) offers this Memorandum Brief in Support of its Motion to Alter or Amend Judgment, pursuant to M.R.C.P. Rule 59(e):

**BACKGROUND AND INTRODUCTION**

The Mississippi Environmental Quality Permit Board (the “Permit Board”) issued a State Operating Permit (the “Permit”) to Gold Coast. On September 11, 2020, the Executive Director of the Mississippi Department of Environmental Quality issued an order citing violations of the Permit and specific environmental laws and regulations.

On November 10, 2020, the Permit Board revoked the Permit. After a hearing, the revocation was affirmed. Gold Coast appealed the Permit Board’s decision to the Hinds County Chancery Court. The matter was transferred to this Court. After receiving briefs from the parties and reviewing the administrative record, this Court issued its Opinion on February 2, 2022 [Doc. 34] affirming the Permit Board’s decision to revoke Gold Coast’s Permit.

**ARGUMENT**

The debate in this state surrounding the appropriate standard of review for agency appeals is now settled. The Mississippi Supreme Court overruled prior law and held that deference should

no longer be given to an administrative agency by a court upon review, regardless of whether the issue is one of a statutory interpretation or an interpretation of rules and regulations. *Miss. Methodist Hospital & Rehab. Ctr., Inc. v. Miss. Div. of Medicaid*, 319 So.3d 1049 (Miss. 2021). Courts alone, not administrative agencies, hold the power to interpret rules, regulations, and statutes within courtrooms. *Id.* at 1055. This holding eliminates confusion and rectifies constitutional violations.

In applying a *de-novo*-but-deference standard of review (*see* Opinion at 3) this Court accepted the Permit Board’s decision to revoke the Permit without any defined, objective standard for what constituted “cause,” and the agency’s determination that it could define cause after the fact. When reconsidering its opinion independent of the Permit Board’s misinterpretation of the law, this Court should find that the Permit Board acted in an arbitrary and capricious matter. The Permit Board’s deficiency was not failure to paper the file – as noted in prior briefing, there is “substantial evidence.” But this Court’s analysis should not end there. In order for the Permit Board to have acted rationally – that is to say, not to have acted arbitrarily and capriciously – the agency must have demonstrated substantial evidence *in support of a promulgated, objective standard*.

The Permit Board did not have a promulgated, objective standard for what constitutes “cause” for purposes of revocation of the Permit, and this Court should review the agency’s decision anew, with no deference given to the agency’s determination that it could revoke the Permit on the basis of an unpublished and unclear standard.

This Court’s opinion giving deference to the Permit Board and the resulting affirmation of the revocation of Gold Coast’s Permit has resulted in an outcome not allowed by the current position of the law in the arena of review of administrative actions. Consequently, this Court

should reconsider its Opinion, apply a *de novo* standard of review without deference to the Permit Board, and reverse the Permit Board's decision.

RESPECTFULLY SUBMITTED, this the 14<sup>th</sup> day of February, 2022.

**GOLD COAST COMMODITIES, INC.**

By: /s/ R. Andrew Taggart, Jr.  
R. Andrew Taggart, Jr. (MSB #7422)

/s/ Cherie Rivera Wade  
Cherie Rivera Wade (MSB # 103307)

**OF COUNSEL:**

R. Andrew Taggart, Jr. (MSB# 7422)

Cherie Rivera Wade (MSB # 103307)

**TAGGART, RIMES & WIGGINS, PLLC**

619 Delmas Avenue

Pascagoula, Mississippi 39567

Telephone: 228.205.3921

Facsimile: 601.898.8420

[andy@trwlawyers.com](mailto:andy@trwlawyers.com)

[cherie@trwlawyres.com](mailto:cherie@trwlawyres.com)

**CERTIFICATE OF SERVICE**

I, the undersigned counsel, do hereby certify that I have electronically filed the foregoing pleading with the Clerk of the Court using the MEC system which sent notification of such filing to all counsel of record.

This the 14<sup>th</sup> day of February, 2022.

/s/ Cherie Rivera Wade  
CHERIE RIVERA WADE