

By: Representative Ford

To: Conservation and
Water Resources

HOUSE BILL NO. 561
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 51-3-3, MISSISSIPPI CODE OF 1972, TO
2 DELETE THE REPEALER DATE OF JULY 1, 1999, ON THE PROVISION THAT
3 DEFINES THE "ESTABLISHED MINIMUM FLOW" AS APPLIED TO THE SURFACE
4 WATERS OF THE STATE BY THE COMMISSION ON ENVIRONMENTAL QUALITY;
5 AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 51-3-3, Mississippi Code of 1972, is
8 amended as follows:

9 51-3-3. The following words and phrases, for the purposes of
10 this chapter, shall have the meanings respectively ascribed to
11 them in this section unless the context clearly indicates a
12 different meaning:

13 (a) "Person" means the state or other agency or
14 institution thereof, any municipality, political subdivision,
15 public or private corporation, individual, partnership,
16 association or other entity, and includes any officer or governing
17 or managing body of any municipality, political subdivision,
18 public or private corporation or the United States, or any officer
19 or employee thereof.

20 (b) "Surface water" means that water occurring on the
21 surface of the ground.

22 (c) "Domestic uses" means the use of water for ordinary
23 household purposes, the watering of farm livestock, poultry and
24 domestic animals and the irrigation of home gardens and lawns.

25 (d) "Municipal use" means the use of water by a
26 municipal government and the inhabitants thereof, primarily to
27 promote the life, safety, health, comfort and business pursuits of

28 the inhabitants. It does not include the irrigation of crops
29 within the corporate boundaries.

30 (e) "Beneficial use" means the application of water to
31 a useful purpose as determined by the commission, but excluding
32 waste of water.

33 (f) "Permittee" means the person who obtains a permit
34 from the board authorizing him to take possession by diversion or
35 otherwise and to use and apply an allotted quantity of water for a
36 designated beneficial use and who makes actual use of the water
37 for such purpose, or his successor.

38 (g) "Permitted use" means:

39 (1) The use of a specific amount of water at a
40 specific time and at a specific place, authorized and allotted by
41 the board for a designated beneficial purpose within the specific
42 limits as to quantity, time, place and rate of diversion and
43 withdrawal.

44 (2) The right to the use of water as specified in
45 the permit, subject to the provisions of Section 51-3-5, including
46 the construction of waterworks or other related facilities.

47 (h) "Watercourse" means any natural lake, river, creek,
48 cut, or other natural body of fresh water or channel having
49 definite banks and bed with visible evidence of the flow or
50 occurrence of water, except such lakes without outlet to which
51 only one (1) landowner is riparian.

52 (i) "Established minimum flow" means the minimum flow
53 for a given stream at a given point thereon as determined and
54 established by the commission when reasonably required for the
55 purposes of this chapter. "Minimum flow" is the average
56 streamflow rate over seven (7) consecutive days that may be
57 expected to be reached as an annual minimum no more frequently
58 than one (1) year in ten (10) years (7Q10), or any other
59 streamflow rate that the commission may determine and establish
60 using generally accepted scientific methodologies considering
61 biological, hydrological and hydraulic factors. In selecting a
62 generally accepted scientific methodology, the commission shall
63 consult with and shall consider recommendations from the
64 Department of Wildlife, Fisheries and Parks. In determining and

65 establishing the minimum streamflow rates, the commission shall
66 give consideration to consumptive and nonconsumptive water uses,
67 including, but not limited to, agricultural, industrial, municipal
68 and domestic uses, assimilative waste capacity, recreation,
69 navigation, fish and wildlife resources and other ecologic values,
70 estuarine resources, aquifer recharge and aesthetics.

71 (j) "Established average minimum lake levels" means the
72 average minimum lake levels for a given lake as determined and
73 established by the commission when reasonably required for the
74 purposes of this chapter. The "average minimum lake level" is
75 that level which shall not be expected to be reached as an average
76 annual minimum no more frequently than one (1) year in ten (10)
77 years, or such other minimum lake level that the commission may
78 determine and establish using generally accepted scientific
79 methodologies considering biological, hydrological and hydraulic
80 factors. In selecting a generally accepted scientific
81 methodology, the commission shall consult with and shall consider
82 recommendations from the Department of Wildlife, Fisheries and
83 Parks.

84 (k) "Board" means the Permit Board as created by
85 Section 49-17-28.

86 (l) "Commission" means the Commission on Environmental
87 Quality.

88 (m) "Mining of aquifer" means the withdrawal of
89 groundwater from hydrologically connected water-bearing formations
90 in a manner in excess of the standards established by the
91 commission.

92 (n) "Groundwater" means that water occurring beneath
93 the surface of the ground.

94 SECTION 2. This act shall take effect and be in force from
95 and after June 30, 1999.