

STATE WATER RESOURCES BOARD MINUTES

AUGUST 30, 1963

A SPECIAL MEETING OF THE STATE WATER RESOURCES BOARD WAS HELD ON AUGUST 30, 1963 AT 9:30 A.M., IN ROOM 522, STATE OFFICE BUILDING NO. 1, CHARLESTON, WEST VIRGINIA. THE FOLLOWING MEMBERS WERE PRESENT.

DR. WARDEN M. LANE, CHAIRMAN  
MR. BERNARD H. JACOBSON  
MR. W. W. JENNINGS  
MR. ARTHUR H. RITCHIE  
MR. JOHN C. AILES

MEMBERS ABSENT:

DR. N. H. DYER  
DR. PAUL H. PRICE

OTHERS PRESENT:

MR. BERN WRIGHT AND MR. L. E. GILLENWATER, WATER RESOURCES DIVISION  
MR. ALBERT L. SOMMERVILLE, ASSISTANT ATTORNEY GENERAL  
MR. GLEN FORTNEY, STATE HEALTH DEPARTMENT  
MR. KEITH FRY, INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

A QUORUM BEING PRESENT THE MEETING WAS CALLED TO ORDER BY THE CHAIRMAN.

TOWN OF ROWLESBURG

THE FIRST ITEM OF BUSINESS WAS THE REVIEW OF A HEARING ON THE CASE OF THE TOWN OF ROWLESBURG WHICH WAS HELD IN KINGWOOD, WEST VIRGINIA ON AUGUST 8, 1963 BEFORE MR. JOHN C. AILES, MEMBER OF THE STATE WATER RESOURCES BOARD. SINCE THE HEARING IS COVERED IN THE REPORTER'S TRANSCRIPT AND IS ON FILE IN THE DIVISION OF WATER RESOURCES, IT WILL NOT APPEAR IN THE MINUTES OF THIS MEETING.

AFTER CONSIDERATION OF THE EVIDENCE PRESENTED AT THE HEARING MR. JENNINGS MOVED THAT THE TOWN OF ROWLESBURG BE ORDERED TO CEASE AND DESIST POLLUTION OF THE WATERS OF THE CHEAT RIVER. THE MOTION WAS SECONDED BY MR. RITCHIE AND PASSED UNANIMOUSLY. WHEREUPON THE FOLLOWING ORDER WAS ENTERED.

BEFORE THE STATE WATER RESOURCES BOARD OF WEST VIRGINIA, AT THE CAPITOL IN THE CITY OF CHARLESTON ON THE 30TH DAY OF AUGUST, 1963.

CASE NUMBER 13

IN RE: TOWN OF ROWLESBURG, A MUNICIPAL CORPORATION

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FINAL ORDER

THIS PROCEEDING CAME ON FOR FURTHER CONSIDERATION ON THIS 30TH DAY OF AUGUST, 1963, UPON A CITATION OF THIS BOARD DATED JULY 18, 1963, WHEREIN THE TOWN OF ROWLESBURG WAS DIRECTED TO SHOW CAUSE WHY THIS BOARD SHOULD NOT ISSUE AN ORDER TO THE TOWN OF ROWLESBURG TO CEASE AND DESIST POLLUTION OF THE WATERS OF CHEAT RIVER. WHEREUPON THE BOARD CONSIDERED THE EVIDENCE ADDUCED AT A HEARING HELD UPON SAID CITATION ON THE 8TH DAY OF AUGUST, 1963 IN THE CIRCUIT COURT ROOM OF THE COURT HOUSE, IN THE CITY OF KINGWOOD, COUNTY OF PRESTON, STATE OF WEST VIRGINIA, AT WHICH HEARING THE SAID TOWN OF ROWLESBURG APPEARED BY MR. EDWIN C. RUNNER, ITS ATTORNEY AND BY MR. JAMES HEATH, ITS MAYOR, AND OFFERED EVIDENCE.

THE BOARD, AFTER HAVING REVIEWED TESTIMONY INTRODUCED AT THE HEARING ON AUGUST 8, 1963, DOES HEREBY FIND THE TOWN OF ROWLESBURG TO BE CAUSING POLLUTION OF THE WATERS OF CHEAT RIVER BY THE DISCHARGED OF UNTREATED SEWAGE TO SAID RIVER.

IT IS ACCORDINGLY ORDERED THAT THE TOWN OF ROWLESBURG FORTHWITH CEASE SUCH POLLUTION.

UNDER THE PROVISIONS OF CHAPTER 20, ARTICLE 5, SECTION 9, OF THE CODE OF WEST VIRGINIA, THE TOWN OF ROWLESBURG HAS THIRTY (30) DAYS AFTER NOTICE OF THE ENTRY OF THIS ORDER TO NOTIFY THE BOARD AS TO WHAT STEPS IT WILL TAKE TO COMPLY WITH SAID ORDER TO ELIMINATE, CONTROL OR REDUCE SUCH POLLUTION.

STATE WATER RESOURCES BOARD

BY: S/ WARDEN M. LANE

WARDEN M. LANE  
CHAIRMAN

INSTRUCTIONS FOR CONDUCT OF HEARINGS

MR. AILES SUGGESTED THAT IT WOULD BE EXTREMELY HELPFUL AND WOULD SAVE CONSIDERABLE MONEY IF A SET OF INSTRUCTIONS WERE DRAWN UP FOR GUIDANCE IN THE CONDUCT OF FUTURE HEARINGS. HE SUGGESTED THAT THESE INSTRUCTIONS BE GIVEN TO THE ATTORNEYS REPRESENTING THE DEFENDANTS OR RESPONDENTS TO ILLUSTRATE THE DIFFERENCE BETWEEN AN ADMINISTRATIVE TYPE HEARING AND A COURT ACTION. THIS WOULD SAVE THE NECESSITY OF BATTLING WITH DEFENSE ATTORNEYS OVER THE PROBLEM OF READING ALL THEIR OBJECTIONS INTO THE RECORDS. IT IS NOT NECESSARY IN AN ADMINISTRATIVE HEARING TO READ OBJECTIONS INTO THE RECORDS. THEY COULD SIMPLY REDUCE THEIR OBJECTIONS TO

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WRITING AND FILE IT INTO THE RECORD. THIS WOULD SAVE A GREAT DEAL OF TIME IN THE CONDUCT OF A HEARING BEFORE THIS BOARD.

TOWN OF BURNSVILLE

MR. WRIGHT STATED THAT A SITUATION IDENTICAL TO THAT IN ROWLESBURG WAS APPARENTLY DEVELOPING IN THE TOWN OF BURNSVILLE IN BRAXTON COUNTY. HE STATED THAT THE TOWN OF BURNSVILLE HAS RECEIVED A GRANT FROM THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE. HE STATED IT APPEARS NOW THERE IS GOING TO BE SOME OPPOSITION TO GOING AHEAD WITH THE PROJECT. AT THIS POINT A DISCUSSION WAS HELD OFF THE RECORD.

GAULEY COAL & COKE COMPANY

MR. WRIGHT STATED THAT THE ITEM SCHEDULED FOR 10 O'CLOCK ON THE GAULEY COAL & COKE COMPANY HAD BEEN POSTPONED AT THEIR REQUEST. HE EXPLAINED THAT THE COMPANY'S PERMIT WAS REVOKED ON THE BASIS OF AN INSPECTION WHICH INDICATED THAT AT LEAST ON ONE OCCASION THE COMPANY HAD PLUGGED UP A SEWER WHICH CAUSED THE PLANT EFFLUENT TO RUN DIRECTLY TO THE STREAM, CAUSING POLLUTION. AFTER BEING NOTIFIED THAT A HEARING ON THEIR APPEAL OF THIS REVOCATION WAS SCHEDULED FOR THIS DATE THE COMPANY, THROUGH ITS ATTORNEY, REQUESTED A POSTPONEMENT. A CONTINUANCE IN THIS CASE WAS GRANTED UPON THE ADVICE OF THE ATTORNEY GENERAL'S OFFICE.

MR. WRIGHT STATED THAT THE GAULEY COAL & COKE COMPANY IN ITS PETITION FOR A CONTINUANCE OF THE HEARING ALSO OBJECTED TO HOLDING THE HEARING IN CHARLESTON. THIS WAS DISCUSSED WITH MR. YOST, ASSISTANT ATTORNEY GENERAL, WHO STATED THAT ON AN APPEAL FOR A PERMIT REVOCATION THERE WAS NO REASON WHY THE BOARD COULD NOT HOLD THE HEARING IN CHARLESTON.

L. L. & B. COAL COMPANY

MR. WRIGHT STATED THAT THE L. L. & B. COAL COMPANY WHICH WAS SCHEDULED TO BE HEARD UPON THEIR APPEAL OF A DENIAL OF A PERMIT HAD ALSO BEEN GRANTED A CONTINUANCE IN THE HEARING UPON REQUEST OF THE COMPANY'S ATTORNEY. MR. WRIGHT SUMMARIZED THE PROBLEM BY STATING THAT THE CASE INVOLVES POTENTIAL STREAM POLLUTION IN A NEW RESERVOIR UNDER CONSTRUCTION BY THE TOWN OF LUMBERPORT. THE COAL COMPANY HAS INDICATED ITS INTENTION TO MINE COAL AND DISCHARGE MINE DRAINAGE INTO NOLANS RUN, WHICH IS A TRIBUTARY OF JONES CREEK, AND IS THE SITE OF A NEW WATER SUPPLY RESERVOIR FOR THE TOWN OF LUMBERPORT. THE COMPANY WAS TOLD THAT A PERMIT WOULD BE DENIED THEM FOR THIS DISCHARGE UNLESS THE MINE DRAINAGE IS TREATED AND DISCHARGED AT A POINT BELOW THE PROPOSED NEW RESERVOIR. THE COMPANY CONTENDS THAT BY THIS DENIAL WE ARE DENYING THEM THE RIGHT TO MINE COAL SINCE THEY CLAIM IT IS NOT ECONOMICALLY FEASIBLE FOR THEM TO PUMP THE WATER TO A POINT BELOW THE RESERVOIR. A WRITTEN BRIEF ON THIS PROBLEM WILL BE SUBMITTED TO THE BOARD FOR STUDY PRIOR TO THE NEXT DATE FOR THE HEARING.

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HOWES LEATHER COMPANY

DURING A DISCUSSION UPON THE DATE FOR THE NEXT REGULAR BOARD MEETING MR. GILLENWATER MENTIONED TO MR. WRIGHT THAT THE HOWES LEATHER COMPANY HAD SUBMITTED A PETITION TO THE BOARD REQUESTING THAT THEY BE GIVEN THE RIGHT OF EMINENT DOMAIN IN REGARD TO PROPERTY LYING ADJACENT TO THE TANNERY FOR USE IN THE CONSTRUCTION OF ADDITIONAL WASTE IMPOUNDMENT FACILITIES.

MR. WRIGHT RECALLED TO THE BOARD THAT THE COMPANY WAS AUTHORIZED TO FILE A PETITION IF THEY WERE NOT ABLE, THROUGH NEGOTIATIONS, TO OBTAIN THE LAND IN QUESTION.

THE BOARD DECIDED THAT IT WAS NOT NECESSARY FOR EITHER THE COMPANY OR THE LAND OWNERS TO BE PRESENT IN ORDER FOR THE BOARD TO MAKE A DETERMINATION ON THE COMPANY'S PETITION. MR. JENNINGS SUBSEQUENTLY MOVED THAT THE HOWES LEATHER COMPANY BE GIVEN THE RIGHT OF EMINENT DOMAIN. THE MOTION WAS SECONDED BY MR. AILES AND PASSED UNANIMOUSLY. WEREUPON THE FOLLOWING ORDER WAS ENTERED.

BEFORE THE STATE WATER RESOURCES BOARD OF WEST VIRGINIA, AT THE CAPITOL IN THE CITY OF CHARLESTON ON THE 30TH DAY OF AUGUST 1963.

CASE NUMBER 14

IN RE: HOWES LEATHER COMPANY, INC.  
A CORPORATION, PETITIONER

ORDER

THIS DAY CAME HOWES LEATHER COMPANY, INCORPORATED BY MR. HARRY J. WIDNEY, ITS MANAGER OF THE POCAHONTAS TANNERY AT FRANK, POCAHONTAS COUNTY, WEST VIRGINIA AND BY MR. KEITH CUNNINGHAM, ITS ATTORNEY, PETITIONING THE STATE WATER RESOURCES BOARD FOR THE AUTHORIZATION TO EXERCISE THE RIGHT OF EMINENT DOMAIN TO SECURE IN FEE SIMPLE TITLE THAT PARCEL OF ABOUT TEN (10) ACRES OF LAND DESCRIBED IN THE PETITION AND EXHIBITS OF HOWES LEATHER COMPANY, INCORPORATED THE TITLE OF WHICH IS NOW VESTED IN ALBERT W. GUM AND MINNIE B. GUM, HIS WIFE.

UPON CONSIDERATION OF THE PETITION AND EXHIBITS OF HOWES LEATHER COMPANY, INCORPORATED AND UPON FURTHER CONSIDERATION OF STATEMENTS MADE BY THE ABOVE SAID MR. WIDNEY AND MR. GILBERT HEAVENER, ENGINEER FOR HOWES LEATHER COMPANY, INCORPORATED, WHO APPEARED BEFORE THE BOARD IN REGULAR SESSION ON THE 25TH DAY OF JUNE, 1963, THE BOARD DOES FIND AND SO ORDERS THAT THE USE BY HOWES LEATHER COMPANY, INCORPORATED OF THE ABOVE SAID PARCEL OF LAND IS NECESSARY IN CONNECTION WITH THE ELIMINATION OR CONTROL OF A SUBSTANTIAL POLLUTION OF THE WATERS OF THE

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EAST FORK OF THE GREENBRIER RIVER AND DOES HEREBY ORDER AND DIRECT THAT HOWES LEATHER COMPANY, INCORPORATED BE GRANTED THE RIGHT OF EMINENT DOMAIN IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 20, ARTICLE 5, SECTION 6 OF THE CODE OF WEST VIRGINIA TO ACQUIRE TITLE TO THE ABOVE DESCRIBED PARCEL OF LAND, THE TITLE TO WHICH IS NOW VESTED IN ALBERT AND MINNIE GUM, AND FURTHER ORDERS HOWES LEATHER COMPANY TO PUT THE SAID LAND TO USE FOR SUCH PURPOSE WITHIN A REASONABLE TIME AFTER THE ACQUISITION OF TITLE OR THE RIGHT OF POSSESSION THEREOF.

THE ABOVE ORDER WAS MADE AND ENTERED AT CHARLESTON, KANAWHA COUNTY, WEST VIRGINIA ON THIS 30TH DAY OF AUGUST, 1963.

STATE WATER RESOURCES BOARD

BY: S/ WARDEN M. LANE  
WARDEN M. LANE  
CHAIRMAN

USPHS CONFERENCE ON MONONGAHELA RIVER

MR. WRIGHT RECALLED FOR THE BOARD THAT A CONFERENCE ON INTERSTATE POLLUTION OF THE MONONGAHELA RIVER HAS BEEN CALLED BY THE SECRETARY OF HEALTH, EDUCATION & WELFARE TO BE HELD IN PITTSBURGH ON DECEMBER 17 AND 18. MR. WRIGHT POINTED OUT THAT HE TAKES THIS AS A VERY SERIOUS MATTER. HE STATED THAT AS FAR AS HE COULD DETERMINE IT WAS NOT REQUESTED BY ANY OF THE STATES CONCERNED. APPARENTLY SECRETARY CELEBREZZE CALLED THE CONFERENCE ON HIS OWN INITIATIVE.

MR. WRIGHT STATED THAT THE PRIMARY PURPOSE OF THE HEARING IS TO GET THE WATER POLLUTION CONTROL AGENCIES OF THE STATES INVOLVED TOGETHER TO SEE WHAT PROGRAMS AND PLANS THEY MAY HAVE FOR ABATEMENT OF ALLEGED INTERSTATE POLLUTION IN THE MONONGAHELA RIVER. APPARENTLY, IF THE STATES DO NOT PRESENT SOME ACCEPTABLE PLAN A FORMAL HEARING WILL THEN BE SCHEDULED BY THE PUBLIC HEALTH SERVICE. MR. WRIGHT STATED FURTHER THAT ORSANCO IS INVOLVED AND HAS BEEN REQUESTED TO BE PRESENT AT THE MEETING. AT THIS POINT A DISCUSSION WAS HELD OFF THE RECORD.

MR. JENNINGS THEN MOVED THAT THE BOARD DEFER ANY ACTION ON THIS MATTER UNTIL AFTER THE NEXT MEETING OF THE OHIO RIVER VALLEY WATER SANITATION COMMISSION. THE MOTION WAS SECONDED BY MR. RITCHIE AND PASSED UNANIMOUSLY.

SNOWY CREEK-LAUREL RUN MINE DRAINAGE PROGRAM

CHAIRMAN LANE STATED THAT THE LAST SESSION OF THE LEGISLATURE

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APPROPRIATED \$20,000 FOR THE CONTINUATION OF THE SNOWY CREEK-LAUREL RUN MINE DRAINAGE PROGRAM. THIS MONEY IS EARMARKED FOR THIS PROGRAM AND CANNOT BE SPENT FOR ANY OTHER PURPOSE. CHAIRMAN LANE STATED THAT HE WOULD LIKE TO HAVE THE BOARD'S FEELINGS ON HOW THIS AMOUNT OF MONEY COULD PROPERLY BE SPENT.

MR. WRIGHT STATED THAT HE THOUGHT THE DIVISION STAFF SHOULD CONSULT WITH THE STATE DEPARTMENT OF MINES SINCE THEY MADE THE ORIGINAL STUDY. MR. WRIGHT STATED THAT FORMER STAFF MEMBERS OF THE MINES DEPARTMENT FELT THAT \$20,000 WOULD BE EFFECTIVE IN DOING SOME ADDITIONAL WORK IN THE AREA. MR. WRIGHT STATED THAT THE DIVISION STAFF HAD MADE SOME STREAM SURVEYS IN THE AREA AND THAT THE SOURCES OF THE POLLUTION HAVE BEEN LOCATED. HE STATED THAT QUITE A BIT OF PRELIMINARY ENGINEERING WORK HAD BEEN DONE BUT THAT A LARGE AMOUNT OF WORK IS STILL NEEDED.

IT APPEARED TO BE THE CONSENSUS OF THE BOARD THAT THIS MONEY MIGHT BE USED ON AN EXPERIMENTAL PROJECT IN ORDER TO DETERMINE THE COMPLETE COST OF THE OVERALL PROJECT.

#### COMPREHENSIVE STUDY-POTOMAC RIVER BASIN

A DISCUSSION WAS HELD IN REGARD TO THE COMPREHENSIVE STUDY BY THE CORPS OF ENGINEERS IN THE POTOMAC RIVER BASIN. SINCE THE DISCUSSION WAS FOR THE PURPOSE OF INFORMATION ONLY, NO ACTION WAS TAKEN BY THE BOARD.

#### SEWAGE TREATMENT AT INDIVIDUAL HOMES

MR. WRIGHT STATED THAT IN A DISCUSSION WITH MR. FORTNEY OF THE STATE HEALTH DEPARTMENT IT WAS MORE OR LESS CONCLUDED THAT WE ARE AT THE PLACE NOW WHERE WE SHOULD PROBABLY BE REQUIRING COMPLETE TREATMENT ON INDIVIDUAL HOMES RATHER THAN JUST SEPTIC TANKS WHERE THERE IS A DIRECT EFFLUENT TO THE STREAM. MR. WRIGHT STATED THAT HE THOUGHT TILE FIELDS, FILTER TRENCHES OR OTHER TYPES OF SYSTEMS THAT WILL GIVE COMPLETE TREATMENT SHOULD BE REQUIRED IN ADDITION TO A SEPTIC TANK.

MR. FORTNEY STATED THAT HE PERSONALLY WOULD LIKE TO SEE COMPLETE TREATMENT REQUIRED FOR THE SMALLER WASTE TREATMENT SYSTEMS SUCH AS WOULD BE FOUND AT INDIVIDUAL HOMES OR SYSTEMS SERVING TWO OR THREE HOMES. HE STATED THIS SHOULD BE DONE WHETHER THE DISCHARGE IS TO AN ACID STREAM OR NOT. MR. FORTNEY STATED THAT THE PROBLEM IS BECOMING ACUTE AND THE EXTENT TO WHICH LOCAL SANITARIANS CAN HANDLE THE SITUATION WILL DEPEND UPON WHAT COULD BE REMOVED FROM THE REGULAR DUTIES OF THE SANITARIANS.

MR. FRY OF THE POTOMAC RIVER COMMISSION STATED THERE WERE DEVICES COMMERCIALLY AVAILABLE WHICH WILL PROVIDE SECONDARY TREATMENT TO A SEPTIC TANK SYSTEM. HE SAID IT INVOLVED PLACING AN AERATOR IN THE SEPTIC TANK, GIVING WHAT MIGHT BE CALLED AN ACTIVATED SLUDGE PLANT INSIDE THE SEPTIC TANK. MR. FORTNEY, IN COMMENTING ON MR. FRY'S REMARKS, STATED THAT THE WEST VIRGINIA STATE HEALTH DEPARTMENT

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REFUSES TO APPROVE THE SYSTEM DESCRIBED BY MR. FRY. HE STATED THAT THERE WAS TOO MUCH LEEWAY FOR ALLOWING THE SYSTEM TO REMAIN INOPERATIVE.

SENATE BILL 649

A DISCUSSION WAS HAD IN REGARD TO SENATE BILL 649 OFF THE RECORD.

ADJOURNMENT

THERE BEING NO FURTHER BUSINESS MR. JACOBSON MOVED FOR ADJOURNMENT. THE MOTION WAS SECONDED BY MR. RITCHIE AND THE MEETING WAS ADJOURNED.

STATE WATER RESOURCES BOARD

S/ BERN WRIGHT

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EXECUTIVE SECRETARY