

STATE WATER RESOURCES BOARD MEETING

October 24, 1963

The regular quarterly meeting of the State Water Resources Board was held on October 24, 1963 at 10:00 a.m. in Room 522, State Office Building Number 1 in Charleston, West Virginia. The following members were present.

Warden M. Lane, Chairman
N. H. Dyer, M.D.
Paul H. Price
Bernard H. Jacobson
Arthur H. Ritchie
John C. Ailes
W. W. Jennings

Others present:

Bern Wright, Executive Secretary
Lyhle E. Gillenwater, Edgar N. Henry, Leslie Schulz and Houston Wood, Jr.
of the Division of Water Resources
Thomas B. Yost and Albert Sommerville, Assistant Attorneys General
Elmer Prince and Jesse Jaco, City Manager and City Attorney, respectively,
of the City of Morgantown
Lawrence Costelac of L. L. & B. Coal Company
Lloyd H. Young, Attorney, representing L. L. and B. Coal Company
Byron Randolph, Attorney, representing the Town of Lumberport
Glen Fortney and John Millar, State Health Department
James A. Bennett, Mayor of Lumberport
J. H. Milam, Consulting Engineer

A quorum being present, the meeting was called to order by the Chairman, and the minutes of the last meeting approved.

Interstate Conference on the Monongahela River

Mr. Wright reminded the Board that at the last meeting it was decided to take no action until after the questions arising relative to the conference had been considered by the Ohio River Valley Water Sanitation Commission. The Commission decided they would attend the conference and requested the Public Health Service to furnish a report for review at least 6 weeks prior to the conference date.

Mr. Wright then read a letter he had written to Secretary Celebrezze informing him that West Virginia would attend the conference and that more than one person might be asked to make statements on behalf of West Virginia's interests. Mr. Wright also requested a copy of the Public Health Service report for review at least 6 weeks prior to the conference. Mr. Wright stated further that the Division staff had prepared a draft of an outline for a statement to present at the conference. Mr. Wright then read the outline of subjects to be covered in the report at the conference.

A discussion ensued regarding the persons to be invited to make statements on behalf of the State.

The Board voted to authorize the Executive Secretary to be the sole representative of the Water Resources Board at the hearing.

Since some of the Board members were a little hazy regarding the purpose of the interstate conference, Mr. Wright explained that the purpose of the conference was to determine if interstate pollution exists and if there is such a problem, what is being done about it and what is to be done in the future.

City of Morgantown

Mr. Prince stated that the City of Morgantown has spent three-quarters of a million dollars since 1954 to take the sewage out of Deckers Creek. However, he admitted that the Deckers Creek interceptor discharges raw sewage into the Monongahela River. He stated the City had made application to the Housing and Home Finance Agency on three occasions and was rejected each time because they could not show financial responsibility without the use of federal funds. He stated that an application had been made to the Department of Health, Education and Welfare for a grant of 58 per cent of the construction cost. HEW asked the City to reduce the request to 50 per cent, but this was rejected by the City Council.

A lengthy discussion followed on the financial problems of the City, after which Chairman Lane stated that the Board feels Morgantown should take action on its sewage problems and should the City not take action, the Board will be compelled to cite them to a hearing.

L. L. and B. Coal Company

Mr. Wright read from the Brief which had been given previously to the Board members. The Town of Lumberport is proposing a new raw water supply impoundment and the L. L. and B. Coal Company is in the process - or have been in the process - of opening a new mine which apparently would drain into this proposed reservoir. When the Water Resources Board found out about this, the company was contacted and informed that we could not issue them a permit for the drainage behind the proposed dam and in any event it would be necessary to treat the water, even if it were discharged below the dam. So on that basis, the company felt that they should be given an opportunity to be heard by the State Water Resources Board on what they felt was a permit denial.

Mr. Wright stated that the company has reconsidered their position in this matter and do not wish a hearing now, but are changing their request to have a permit issued for the discharge below the dam. The Water Resources Board directed the staff not to issue any more permits for mine drainage into Jones Creek which presently serves as a source of water for the Town of Lumberport.

Mr. Yost suggested that an informal discussion be held in lieu of a hearing, whereupon a lengthy discussion followed.

Mr. Jennings moved that the problem with Lumberport and the L. L. and B. Coal Company remain at status quo until the Town informs the Board that they are satisfied with the plans of the coal company. This was seconded by Mr. Ritchie and passed unanimously.

Chairman Lane informed the Board that the policy statement of the Board refusing to grant permits in the Jones Creek drainage basin is still on the records and cannot be rescinded without Board action. In order to issue a permit a Board meeting will be necessary. In fairness to the company, this means the next Board meeting is held in January unless a special meeting is called.

Public Law 660 Grants

Mr. Wright stated the Board had previously set September 1 as the deadline for receipt of applications requesting a grant in aid under Public Law 660. The U. S. Public Health Service has informed us that West Virginia is scheduled to receive \$1,422,405 during the fiscal year 1964. The balance from fiscal 1963 is \$124,588.22. This will give a total of \$1,546,993.22 available for projects during fiscal '64. Grab Orchard PSD, Follansbee, Man and Mill Creek applied for funds before the deadline, requesting a total sum of \$441,490.00. This leaves a balance of \$1,105,503.62 for the fiscal year '64. Martinsburg has requested an additional \$103,000. The funds are available and Mr. Wright recommended that Martinsburg be given the additional money and that the other four applicants be given priorities. Whereupon, a motion was made, seconded, put to vote and carried.

Pocahontas Fuel Company - Itmann Plant

Mr. Wright presented the draft of an order proposing to rescind the original "cease and desist" order since the Supreme Court upheld the Wyoming County Circuit Court's ruling against the Board. Upon advice of Mr. Yost, the Board decided not to take any further action in this matter since the Circuit Court's order vacated the Board's order, anyway.

Mr. Jennings moved to have Mr. Wright's staff check the status of the plant's new operating company (Itmann Coal Company) and if they are operating without a permit, then advise them. Mr. Ritchie seconded the motion. The same was put to a vote and carried.

Town of Rowlesburg

Mr. Wright read a letter from the Town of Rowlesburg stated that the Town will comply with the Board's order to cease and desist pollution. The Board passed a motion accepting the letter and calling for quarterly progress reports beginning with November 15, 1963.

Gauley Coal and Coke Company

Mr. Wright stated that the permit to the Gauley Coal and Coke Company at Jetsville was revoked and the company appealed for a hearing. The hearing date was set, but the hearing was continued upon petition by the Company. The company later requested that the appeal hearing be dropped.

Gauley Eagle Division - Cherry River Coal and Coke Company

Mr. Henry stated he had inspected the plant prior to the start of operations as part of the review of the permit application. After being informed that the company was in operation, Mr. Henry again visited the plant and pointed out places where corrections should be made in order to receive a permit. None of the corrections were made and the Summersville water plant operator has caught them discharging black water on five occasions. Mr. Mullins, a Division Inspector has collected samples and has contacted the County Conservation Officer in regard to serving a warrant on the company. This was done today and a hearing will be held in the J.P. Court on Saturday. The company does not have a permit.

Mr. Wright pointed out the past difficulties the Board has had with this company.

Mr. Yost volunteered to contact the Prosecuting Attorney in the County and ask him to appear at the J.P. Court.

The remainder of the discussion was had off the record.

City of Clarksburg

Mr. Wright pointed out that Clarksburg still has not provided sewage treatment even though under a Court injunction to obey the cease and desist order of the State Water Commission.

Mr. Fortney pointed out that the Towns of Nutter Fort and Stonewood are affected since they have plans to enter the Clarksburg treatment plant and have been actively pursuing their programs.

Mr. Wright reminded the Board of a resolution passed some time ago prohibiting the addition of sewers to a central collecting system without treatment.

After a lengthy discussion, the Board authorized Mr. Wright to take any action he sees fit in this case.

City of Welch

Mr. Wright stated he had received a request from the Mayor of Welch to discharge the City's sewage to an abandoned mine. The City has already received a

50 per cent grant for a more acceptable treatment plant, but the Mayor says they still cannot finance the project. Mr. Wright stated he feared contamination of ground water by the method proposed by the Mayor, and he recommended against its approval.

The Board voted to disapprove the Mayor's request.

Acid Mine Drainage

Mr. Wright read a proposed resolution on the control of acid mine drainage and recommended its approval by the Board.

Mr. Ritchie moved the resolution be adopted. The motion was seconded by Mr. Jacobson and passed unanimously. Whereupon, the Resolution was read into the record as follows:

Resolution No. 2-63
Adopted October 24, 1963

ACID MINE DRAINAGE CONTROL MEASURE

WHEREAS: Certain acid mine drainage control measures were adopted by the Ohio River Valley Water Sanitation Commission and promulgated as Resolution No. 5-60, as amended January 10, 1963; and

WHEREAS: The State of West Virginia is a member of the Ohio River Valley Water Sanitation Compact and as such has agreed to carry out the control measures so established; and

WHEREAS: Waters of the State of West Virginia are being polluted by acid discharges from coal mining and related operations, hereinafter referred to as 'Acid Mine Drainage', contrary to the language and intent of the State Water Pollution Control Law; and

WHEREAS: It has been demonstrated that the conscientious application of certain principles and practices will, under certain conditions, alleviate the pollution from acid mine drainage;

NOW THEREFORE: In furtherance of the policy and procedures of the State Water Resources Board;

BE IT RESOLVED: That the following measures are hereby adopted by the Water Resources Board for the control of acid mine drainage pollution in the State of West Virginia:

1. (a) Surface waters and ground waters shall be diverted where practicable to prevent the entry or reduce the flow of waters into and through workings.

- (b) Water that does gain entry to the workings shall be handled in a manner which will minimize the formation and discharge of acid mine drainage to streams.
- II. Refuse from the mining and processing of coal shall be handled and disposed of in a manner which will minimize discharge of acid mine drainage therefrom to streams. Where acid-producing materials are encountered in the overburden in stripping operations, these materials shall be handled so as to prevent or minimize the production of acid mine drainage, taking into consideration the need for stream pollution prevention and all economic factors involved.
 - III. Discharge of acid mine drainage to streams shall be regulated insofar as practicable to equalize the flow of daily accumulations throughout a 24-hour period.
 - IV. Upon discontinuance of operations of any mine all practicable mine-closing measures, consistent with safety requirements, shall be employed to minimize the formation and discharge of acid mine drainage.
 - V. Under appropriate circumstances, consideration shall be given to the treatment of acid mine drainage by chemical or other means in order to mitigate its pollution properties.

Nothing stated in this control measure shall be construed to relieve any municipality, corporation, person or other entity from responsibility for compliance with existing federal, state and local laws and regulations.

Adjournment

The Board adjourned its meeting at 12:45 p.m.

STATE WATER RESOURCES BOARD

S/ Bern Wright

Executive Secretary

BW: LEG/mms