

MEETING - APRIL 22, 1980 - 1201 Greenbrier Street, Charleston, WV
Present - Mr. Dave Robinson, Chief - Division of Water Resources,
Mr. John Ailes, Chairman - State Water Resources Board,
Mr. Nicholas Johnson, Deputy Attorney General,
Mrs. Karen Watson, Assistant Attorney General; and
Fran Hunter, Secretary - State Water Resources Board

This meeting was originally set up between the State Water Resources Board and Mr. Robinson re: the assistance of the technical staff of the Division of Water Resources in assisting or advising the Board in the reviewing of the Draft Copy of the Proposed West Virginia Administrative Regulations on Water Quality Standards, but on the 10th day of April 1980, the Appalachian Research & Defense Fund, Inc. (Counsel David R. Wooley - representing the Tug Valley Recovery Center) sent a "NOTICE OF INTENT TO SUE" to the Administrator-U.S.EPA, Washington, D.C; Regional Administrator-Region III-U.S.EPA, Philadelphia, Pa.; Director-Department of Natural Resources; Chief-Division of Water Resources and John Ailes, Chairman-State Water Resources Board - RE: West Virginia Water Quality Standards and the Board had requested by letter that the Attorney General's Office assign an attorney to represent them -- thus the presence of Mr. Johnson and Mrs. Watson.

A copy of the changes to the draft document recommended by EPA was received April 21, 1980, by the Board and is attached hereto.

Mention was made of the correspondence between the

Region III EPA Office and the Board regarding various changes that should be made to conform with the Federal guidelines which would be acceptable to EPA as it pertained to certain sections of the 1977 Administrative Regulations and the DRAFT PROPOSED REGULATIONS sent to them in 1979.

It was suggested that perhaps the Attorney General's Office would write a letter to the Board members concerning the "NOTICE OF SUIT" and advise them regarding the actions which the Board and Division should take.

Mr. Ailes explained briefly that he and Cherrie Kirk had rearranged Chapters/Sections - they would be titled Chapter 1 - Sections through so & so; Chapter 2 - , etc. Chapter 1 - General; 2 - Water Uses & Water Quality Criteria for Specific Watersheds; and 3 - Special Regulations and that the NPDES part could be promulgated and the effective date would be the date the State of West Virginia would receive the formal delegation from EPA - these three (3) Chapters could be typed, public notice made, and a target date was established as possibly being June 10, 1980, that they would be ready in a PROPOSED ADMINISTRATIVE REGULATION FOR WATER QUALITY CRITERIA and hearings be held by August 10th or thereabouts 1980.

It was pointed out that in the past, the regulations had always been prepared by the Division and that when John Hall was Chief, suggested rather than the Division doing them, the Board employ a consultant (which was done). Prof. Pat McGinley was employed as a consultant and was to present a DRAFT OF WATER QUALITY REGULATIONS and to assist the sponsor in any reasonable way until the regulations are promulgated or

until June 30, 1979 - Pat received an amount of \$5,000.00 and there was some discussion as to the question if he had fulfilled his contract.

The section pertaining to suspended solids was "hashed around" somewhat - number versus percentage - from non-point source discharges such as silviculture, timber operations, shopping center construction sites, etc. Mr. Robinson gave an couple of examples from other States such as Oklahoma uses JTU - 50 - other than "natural" but then the question was "what is natural"? The number that had been inserted in the WORKING DRAFT OF THE PROPOSED REGULATIONS came from the Surface Mine Regulations.

Mr. Robinson reported that there would be representatives from EPA present next week - April 30th - regarding the STATE-EPA Agreement and spoke to a representative of EPA and it was decided that the time of 2:45 P. M. would be reserved for any members of the Board to meet along with EPA and State representatives to discuss the Water Quality Standards and that EPA would accept the variance procedure, the anti-degradation policy and the mixing zone criteria as proposed in the WORKING DRAFT which had been sent to them last year.

Mr. Ailes stated it would be helpful if EPA would furnish us with an idea of what they would accept as maximums or minimums and agree to give serious consideration as to the public comments and justifications received by the Board on Proposed Regulations when the public gets a chance to review them, and at the time of the public hearings if the Chief of the Division of Water Resources would get up and say

this is what he and his staff support as presented and file at the time of hearing, a statement to that effect with supporting data -- if different from EPA's suggestions, and why and someone from EPA to say "we support these Proposed Regulations, etc."

It was agreed if the Board Secretary would need any clerical assistance during this time, it would be provided.

The meeting was concluded with the understanding that the Division would have something ready by next Wednesday what they think is enforceable and why; that EPA and the Division's comments would be considered before the Proposed Regulations would be prepared to go to Public Notice and the justification for any such changes.

Respectfully submitted,

Your Secretary

Evaluation of the Draft Proposed Revisions to "West Virginia Administrative Regulations - State Water Resources Board" - Sections 1 through 3, 6 through 15 and 63-64.

The following changes to the draft document are recommended:

1. Addition of an unionized ammonia criteria of 0.05 mg/l to the criteria list contained in Section 7.01(b).
2. Revision of the cadmium criteria for trout waters contained in Section 15.02(a)(7) such that the criteria would read:
0.4 micrograms/l in waters where hardness as CaCO_3 is less than 75 mg/l
1.2 micrograms/l in waters where hardness as CaCO_3 is greater than 75 mg/l
3. The revised standards should reflect the revisions of Stream Designations for the three variances discussed in our May 18, 1979 letter to John Ailes. In addition, it is my understanding that a number of trout streams have been improperly designated in the existing Water Quality Standards. Any redesignations should be proposed in the draft document and justification for each redesignation should be included.

RECEIVED

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WATER RESOURCES BOARD