



## ENVIRONMENTAL QUALITY BOARD

1615 Washington Street, East, Suite 301  
Charleston, West Virginia 25311-2126  
(304) 558-4002

Gaston Caperton  
Governor

Fax: (304) 558-4116

Charles R. Jenkins  
Chairman

### MINUTES

## WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD April 18 & 19, 1996

### I. General

The West Virginia Environmental Quality Board (the "Board") met on April 18 & 19, 1996, at 8:15 a.m.. The meeting was held in the conference room located at 1615 Washington Street, East, in Charleston, West Virginia. Vice-Chairman David Samuel called the meeting to order. Board members present at the meeting included:

Dr. David Samuel, Vice-Chairman  
Dr. Edward Snyder  
Sarah Lee Neal  
Dr. Donald Tarter

Members not present:

Dr. Charles Jenkins, Chairman  
Dr. Donald Tarter, not present on 4-18-96  
Dr. David Samuel, not present on 4-19-96

### II. Board Meeting

#### A. Administrative Meeting

##### 1. Budget Report

Libby Chatfield and Ann Tipton discussed with the Board the 1997 budget. They discussed the meeting the two had with DEP officials, Mary Hunt and Dave Watkins.

##### 2. Minutes from March Meeting

The Board approved the minutes from the March 14 & 15, 1996 meeting. Sarah Lee Neal moved to accept the minutes as presented and Edward Snyder seconded the motion.

**3. Bright Coal Company, Appeal No. 600**

The Board voted not to sign the Agreed Order presented by the parties, but to dismiss the appeal. Sarah Lee Neal made the motion and Edward Snyder seconded the motion.

**4. Fancher's Meats, Inc., Appeal No. 652**

The Board voted by unanimous consent to sign the Order affirming interim settlement.

**5. Scheduling**

Together with the staff of the EQB the Board set hearing dates through August.

**6. Five Mile Rule**

The Board moved to make the final filing of the Five Mile Rule effective April 22, 1996. Sarah Lee Neal made the motion and Edward Snyder seconded the motion.

**7. Raleigh-Boone Service Company, Appeal No. 650**

The Board discussed a Motion for Reconsideration of its previous Order. Sarah Lee Neal moved the document be placed in the certified file and Edward Snyder seconded the motion.

**8. Certified Oil Company, Appeal No. 620**

The Board discussed each issue in the appeal and directed Becky Charles to draft an order accordingly.

**B. Case Summaries**

Case summaries were provided and the Board members were briefed by Becky Charles. She presented prehearing summaries on Kenneth M. Orr, Appeal Nos. 628-649 and Frank L. Murphy, Appeal No. 623.

**C. Evidentiary Hearing**

**1. Kenneth M. Orr, Appeal Nos. 628-649**

The Board discussed the Appellant's opposition to the Chief's

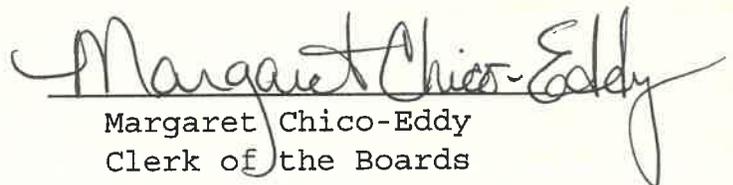
Motion to Compel Discovery and Motion for Sanctions, and the Motion to withdraw its Motion to Compel Discovery. The Board decided to move forward since the State withdrew their Motion to Compel Discovery. The Board heard all testimony and at the conclusion of the hearing counsel for the Appellants presented a written Motion to Stay Proceedings pending the outcome of the Appeal. A post-hearing schedule was developed by legal counsel Becky Charles in order to expedite matters.

**2. Frank L. Murphy, Appeal No. 623**

A settlement was presented to the Board with one unresolved issue. The parties waived their right to Findings of Fact and Conclusions of Law, so the Board could rule immediately. The Board ruled to waive the registration and capitalization fees that had been imposed on Mr. Murphy and agreed to the rest of the settlement.

I hereby certify that the foregoing is a true and correct record of the proceedings of the meeting held on March 14 & 15, 1996 by the West Virginia Environmental Quality Board.

Submitted this 2nd day of May 1996.

  
Margaret Chico-Eddy  
Clerk of the Boards