



ENVIRONMENTAL QUALITY BOARD

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MINUTES WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD MARCH 31, 1997

I. General

The West Virginia Environmental Quality Board (the "Board") met on March 31, 1997, beginning at 8:30 a.m. The meeting was held in the conference room located at 1615 Washington Street, East, Charleston, West Virginia. Dr. Charles R. Jenkins, Chair of the Board, called the meeting to order. All Board members were present. They were:

Dr. Charles R. Jenkins, Chair
Dr. Edward Snyder, Vice-Chair
Betsy Dulin
Dr. David Samuel
Dr. Donald Tarter

Staff members present were:

Becky Charles, Legal Counsel
Libby Chatfield, Technical Advisor
Ann Holstein, Administrative Secretary

II. Board Meeting

A. Approval of Minutes

Donald Tartar made a motion to accept the minutes of the February 7, 1997, meeting as written. Edward Snyder seconded the motion which carried by a unanimous vote.

B. Status Reports on Landfill Appeals

The Board heard status reports on a group of landfill cases. These appeals included:
Valero Terrestrial Corporation, Appeal No. 561 and 581
Lackawanna Transport Company, Appeal No. 562
LCS Services, Appeal NO. 477

Armando Benincasa, Legal Counsel for the Division of Environmental Protection

appeared before the Board and presented the status reports. Dean DeLa Mater, counsel for Wetzel Solid Waste Authority (an Intervenor in Appeal No. 562), also appeared before the Board. Attorneys for the other parties in these cases opted not to appear in person. They allowed Mr. Benincasa to present the reports in their absence. Mr. Benincasa explained that the parties are now waiting for a final order from the United States District Court (N.D.W.V.) which may resolve these appeals. He requested the Board to postpone the setting these appeals until after the federal court issues a ruling. Mr. DeLa Mater concurred. The Board was also informed that a Motion to Dismiss had been filed in the LCS Appeal No. 477.

The Board members unanimously decided to continue these cases (except No. 477). The Board decided to require the parties to submit the federal order to the Board within ten (10) days after they receive it.

C. Wheeling-Pittsburgh Appeal Nos. 616 and 617

The parties in these appeals appeared before the Board and presented a status report. Kenneth Komoroski, counsel for the Appellant, appeared with several representatives from the company. Scott Goldman, counsel for the Appellee, appeared with Naresh Shaw who is an engineer with the Office of Water Resources. The parties explained to the Board that their studies are nearly complete now. They requested some more time to negotiate some remaining NPDES permit issues or at least to identify any issues that may need to be heard by the Board. The Appellant also stated that it believes that it has now complied with all requirements in the order that was the basis of Appeal No. 616. The Appellee wanted to review that order before it determined whether all requirements had been met.

The parties requested, and the Board granted, sixty (60) days to negotiate the final NPDES permit or to identify issues needing a hearing. The parties also sought, and the Board granted, an additional sixty (60) days to complete discovery if a hearing is needed.

D. Weirton Steel Appeal No. 587

In February, the parties in this appeal submitted an Agreed Order to the Board. The Board did not sign the order at that time. The attorney for the Appellant, Don Bluedorn, was present at this meeting. Also present was Scott Goldman, attorney for the Division of Environmental Protection. The Board asked them questions regarding the Agreed Order.

Betsy Dulin made a motion to approve the Agreed Order as it was submitted. Donald Tarter seconded the motion. The Motion carried with one Board member, Edward Snyder, dissenting.

E. LCS Appeal No. 477

Donald Tarter made a motion to grant the Appellant's Motion to Dismiss the appeal. Edward Snyder seconded the motion which carried by a unanimous vote.

F. Alliant Appeal Nos. 661 and 663

Edward Snyder moved to approve both Agreed Orders presented to the Board by the parties. Donald Tarter seconded the motion. The motion carried by a unanimous vote.

G. Monty Fowler, et al., Appeal Nos. 591A and 595A

The Board discussed Mr. Fowler's Motion to Vacate Industrial Landfill permit and any subsequent Industrial Wastewater Permits. The Board unanimously agreed that it should reply by letter to Mr. Fowler. The Board agreed that its response should state that these appeals are no longer active since the Board issued a final order in 1994. The Board requested that Becky Charles draft a letter and forward it to Charles R. Jenkins for his approval before sending it to the parties.

H. Union Carbide Appeal No. 664

Edward Snyder made a motion to approve an Order submitted by the Appellant which dismisses the appeal without prejudice. Betsy Dulin seconded the motion. The motion carried by a unanimous vote by Board members Charles R. Jenkins, Edward Snyder and Betsy Dulin. Board members David Samuel and Donald Tarter were not present during this discussion.

I. James and Walter Dunn Appeal No. 656

The Board reviewed reports submitted by the parties in this appeal. David Samuel made a motion to require the state to complete its groundwater assessment within forty-five (45) days and to grant a sixty (60) day stay. His motion also included a requirement that the parties submit a report to the Board within sixty (60) days so that the Board could make a final decision in this appeal. The Motion was seconded by Betsy Dulin and carried by a unanimous vote. Board members David Samuel and Donald Tarter were not present during this discussion.

III. Rulemaking Meeting

A. Groundwater Standards (46 C.S.R. 12)

The Board discussed a letter from Dave Watkins, Ground Water Program Leader from the Office of Water Resources (OWR) of the Division of Environmental Protection (DEP) regarding suggested amendments to the Groundwater Standards rule (46 C.S.R. 1). Dave Watkins and Mike Dorsey from the Office of Waste Management (OWM) of the DEP were both present and addressed questions from the Board regarding possible amendments to the rule.

The issues raised in the letter include the following: amending existing parameters and adding new parameters to provide consistency with the requirements of the Federal Resource Conservation and Recovery Act (RCRA); amending section 3.5.b of the standards to allow

groundwater regulatory agencies to determine compliance with the standards for inorganic constituents using total concentration values when required by federal statute or regulations; adding new parameters to the list of constituents based on new Maximum Contaminant Levels (MCLs) adopted by EPA since the groundwater standards were promulgated, and adding EPAs Health Advisory (HA) value for naphthalene to the list of constituents in the rule.

B. Water Quality Standards (46 C.S.R. 1)

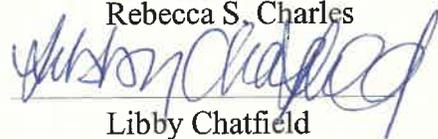
Libby Chatfield updated the Board regarding issues being considered during the triennial review of the rule. She outlined the issues which had been identified by Region III of the US Environmental Protection Agency (EPA) for review as well as those identified by other interested parties. A notice of the triennial review had been distributed to parties on the Board's mailing list and published in the State Register. Comments from the public on issues of interest in the triennial review period are to be submitted by March 31, 1997.

Several parties have indicated an interest in amending the chronic aluminum criterion which is currently set at 87 ug/l. OWR had reported in a prior meeting that data collected throughout the state indicates that background levels in many streams exceed 87 ug/l. OWR representatives at the present meeting reiterated their concerns that many streams are not in compliance with the aluminum standard and further that several requests for aluminum discharges have been denied and more will likely be denied. They indicated that the Board may see numerous applications for variances or site-specific numeric criteria for aluminum in the near future. Ms. Chatfield indicated that in her discussions with EPA that they had encouraged the state to retain the chronic criterion, which is EPAs recommended value.

Dave Yaussy, representing the West Virginia Manufacturers Association asked the Board to consider changing the numeric criteria for metals to provide that they be expressed as dissolved concentrations rather than total concentrations. He cited support for that policy from EPA Headquarters as well as Region III's office.

We hereby certify that the foregoing is a true and correct record of the proceedings of the meeting held on March 31, 1996 by the West Virginia Environmental Quality Board.

Submitted this 25th day of April 1997.


Rebecca S. Charles

Libby Chatfield