



ENVIRONMENTAL QUALITY BOARD

1615 Washington Street, East, Suite 301
Charleston, West Virginia 25311-2126

Telephone: (304) 558-4002
Fax: (304) 558-4116

Telephone: 1-800-480-4598
E-Mail: clerk@mail.wvnet.edu

MINUTES WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD September 29, 1997

I. General

The West Virginia Environmental Quality Boards (the "Boards") met on September 29, 1997, at 9:00 a.m. The meeting was held at 1615 Washington Street, E., Charleston, West Virginia. Edward M. Snyder, Chair of the Environmental Quality Board, called the meeting to order. Board members present included:

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

Staff Members Present:

Becky Charles, Legal Counsel
Libby Chatfield, Technical Advisor

I. Administrative Matters

1. Mepco Remining Variance Application

The Board reviewed remining variance application submitted by Mepco Corporation, and had a discussion with representatives from the company and Ken Politan from the Office of Mining and Reclamation. Board asked Libby Chatfield and Ken Politan to talk to Environmental Protection Agency (EPA) about impacts of upstream contributions on meeting variance limits. The Board suggested having the company conduct benthic studies pre and post mining to help determine improvement in water quality. The Board also suggested collection of flow data and what percentage of Booths Creek is contribution from the mine.

2. Metals Committee

Board discussed composition of members of metal's committee. Interested parties from industry include Chamber of Commerce recommended Mike Brown; The Silver Council - Tom Purcell; Allegheny Power Company - Rick Herd and West Virginia Manufacturers Association -

no recommended person. Libby Chatfield has contacted Shirley Skaggs regarding whether Affiliated Construction Trades Foundation (ACT) is interested in having a representative on the committee. Potential agency members discussed include Office of Water Resources, WV Bureau of Public Health, US Fish and Wildlife Service, WV Division of Natural Resources and US Environmental Protection Agency.

After discussion of the potential parties, Dave Samuel moved that the committee include a member of the Board (advisory - non-voting) Office of Water Resources, WVDivision of Natural Resources and WV Department of Health, WV Chamber of Commerce (Mike Brown) and Affiliated Construction Trades Foundation (ACT)(Carpenter and Associates). Don Tarter seconded the motion which passed by a unanimous vote. The Board directed Ms. Chatfield to follow up with Chairman Snyder on any outstanding questions regarding committee membership.

3. Staff Organizational Directives

Discussion with Mike Koon, chair of Air Quality Board (AQB) about moving forward with finalizing Staff Organizational Directives document. Mike Koon has had no comments from AQB members and agreed to forward the document to the staff for comments. Bob Jenkins made a motion to accept the staff directives document as written; Dave Samuel seconded the motion. The motion carried by a unanimous vote. The Board agreed that the document should be given to staff for their review and comments.

4. Antidegradation

Libby Chatfield advised the Board that EPA has expressed concern regarding the lack of implementation guidance for antidegradation provisions. Ms. Chatfield reported that she is meeting with Office of Water Resources representatives next week.

5. Dave Flannery's Letter Re: Ex Parte Communications

The Board acknowledged receipt of letters and briefly discussed the issue. The Board requested a letter thanking Mr. Flannery for his comments on the rulemaking procedure. The Board suggested that the staff review the APA statute and Secretary of State Regulations regarding rulemaking. Then the Board can determine what can be done within the bounds of these laws to remedy the ex parte communication dilemma noted in Mr. Flannery's letter.

6. Dave Flannery's Letter Re: Review of Iron Criterion and Metals Committee

The Board acknowledged receipt of the letter and suggested a letter thanking Mr. Flannery for his comment. The Board also suggested that the letter explain the Board's position on keeping the iron issue separate from the metal committee's issues. The letter should also contain a solicitation of the Chamber of Commerce's suggestions for changing the iron criterion and a basis (documentation) for such change.

7. Shiloh River Corporation - Appeal No. 97-01-EOB

After briefly discussing the nature of this appeal, Bob Jenkins made a motion that the Board approve the parties' Consent Agreement. Don Tarter seconded the motion which then carried by a unanimously vote.

8. Minutes

Bob Jenkins made a motion to approve the minutes for July 24, 1997. Don Tarter seconded the motion which carried by a unanimous vote.

Bob Jenkins made a motion to approve the minutes dated August 22, 1997. Dave Samuel seconded the motion which carried by a unanimous vote.

During the discussion of minutes, the Board suggested that the staff obtain a copy of Robert's Rules of Order for the Boards.

9. Budget

The Board reviewed a budget document provided by Ann Holstein. The Board decided to defer their questions about the budget until the next meeting.

10. New Offices

Becky Charles informed the Board that Commissioner Caffrey may be planning to consolidate the office space for the entire Bureau of the Environment. This would include the EQB and AQB. The Board suggested that Becky write a letter to Mr. Caffrey asking him to keep the Board informed about the progress of this project. Issues the Board is concerned about are: office cost; space for meeting rooms and a separate conference room; privacy from Division of Environmental Protection (DEP) offices; and a secure file room. Becky will send the Board's letter to Ed Snyder for him to review and sign.

11. Procedural Rule

The Board reviewed the draft revision of the Procedural Rule and suggested a few corrections. Bob Jenkins then moved to have Ed Snyder discuss and approve any changes that the Air Quality Board may have to the rule. Don seconded this motion. The motion approved by a unanimous vote.

12. October Meeting Agenda

At the October meeting the Board will decide the Trenary Appeal. They will also review the employees' policy manual and will make a final decision on the Procedural Rule Governing Appeals.

13. December Meeting Date

The December meeting date will be December 19, 1997. A quorum of Board members can be present.

I hereby certify that the foregoing is a true and correct record of the proceedings of the meeting held on September 29, 1997 by the West Virginia Environmental Quality Board.

Submitted this 24 day of October 1997.



Rebecca S. Charles
Legal Counsel

Approved Oct. 24, 1997