



ENVIRONMENTAL QUALITY BOARD

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MINUTES WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD May 13 & 14, 1998

I. General

The West Virginia Environmental Quality Board (the "Board") met on May 13 & 14, 1998, at 1:00 p.m and 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, (May 13 only)
Betsy Dulin
Charles R. Jenkins

Staff Members Present:

Becky Charles, Legal Counsel
Libby Chatfield, Technical Advisor
Margaret Chico-Eddy, Clerk of the Boards
Ann Holstein, Administrative Secretary

II. Administrative Matters

A. D & L Coal Remining Variance Request

After much discussion with Tim Swanabart and Bob Dugan the Board requested more scientific data before any determination can be made pertaining to this variance. Ken Politan participated in the Board discussion by telephone. Don Tarter requested a benthic survey be done before and after the remining to check for aquatic life. The Board will have a conference call during it's June 4 and/or 5 meeting to gather more information.

B. Minutes

Bob Jenkins made a motion to accept the minutes, which was seconded by Don Tarter. The motion carried by a unanimous vote.

C. Budget Report

Ann Holstein informed the Board that she resolved the salary problem by splitting Libby Chatfield's salary. There will be 2% from the AQB budget for Team Leader duties performed by Libby and 98% from ground water and the regular budget. Ann and Libby are meeting with the Board chairs to discuss an improvement package for the Boards.

Don Tarter made a motion to allow movement on an improvement package and make Ed Snyder the delegate for the EQB, which was seconded by Betsy Dulin. The Board wants this to concur with the AQB. The motion carried by a unanimous vote.

D. Pro Se Appellants

Becky Charles discussed non-lawyer Appellants representing groups during Board hearings. Becky informed the Board that she discussed this issue with Tom Tinder, Executive Director of the WV State Bar and he suggested that the Boards promulgate a rule on this issue. Margaret Chico-Eddy is to research past cases in order to determine how many organizations used non-lawyer representation. The EQB would like this to be discussed at a joint meeting.

Bob Jenkins made a motion that any group appearing before the Board must be represented by legal counsel or an officer of their organization or have written authorization from the organization in order to appear before the Board, pending approval by the AQB. The motion was seconded by Don Tarter. The motion carried by a unanimous vote.

E. Paitsel Lockhart, Motion to Dismiss, Appeal No. 98-06-EOB

Betsy Dulin made a motion to deny the Motion to Dismiss, which was seconded by Bob Jenkins. The motion carried by a unanimous vote.

F. Ali Co. Remining Variance Request

Russell Boyard representing Ali Coal Company discussed all the measures that have been taken to complete their variance. Mr. Boyard informed the Board as to the studies and analysis that have been completed to date. Ken Politan answered questions for the Board by telephone. Libby Chatfield will discuss the variance issues with EPA. A ten minute discussion will be held at the June 4 & 5 meeting.

G. Water Quality Standards

Tim Albert, as a member of the WV Manufacturers Association spoke to the Board about concerns the Association has with legislation implemented pertaining to Water Quality Standards, antidegradation, Public A category and dissolved metals. The Association wanted something in writing from the Board on interpretative rule, but the Board decided it cannot do that due to Legislative Rulemaking Review. Emergency Rulemaking was discussed as an option to correct some of the mistakes made during the Legislative session.

Don Bluedorn discussed Public A with the Board. The Board informed Mr. Bluedorn that we plan on having public hearings on this issue this summer. The Board wants to look at this from a stream by stream basis. Libby Chatfield is looking into what the State of Virginia has done, since they recently did a study like this.

H. DuPont/ACT, Status Report, Appeal Nos. 599 & 602

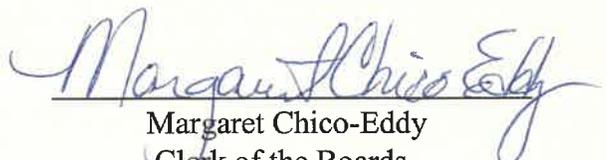
Shirley Skaggs represented ACT, Mark Rudolph represented the State and David Yaussy represented DuPont in their status reports to the Board. The Board elected to send the parties a letter indicating that the Board did not feel that it has jurisdiction in this matter any longer.

I. TMDL's, Appeal Nos. 98-08-EOB, 98-09-EOB, 98-10-EOB & 98-11-EOB

The parties in this case discussed the status of the appeals with the Board. David Yaussy notified the Board that he was no longer representing Franklyn Engler in this matter. He also informed the Board that Mr. Engler may want to withdraw his appeal without prejudice. The DEP announced that it would be filing a Motion to Reconsider its Motion to Dismiss. Motions in this case are due on May 22, 1998 and any responses are due on June 1. The Board will hear this case on July 13 and/or 14.

I hereby certify that the foregoing is a true and correct record of the proceedings of the meeting held on May 13 & 14, 1998 by the West Virginia Environmental Quality Board.

Submitted this 3rd day of June 1998.


Margaret Chico-Eddy
Clerk of the Boards