

**BUREAU OF THE ENVIRONMENT  
ENVIRONMENTAL QUALITY BOARD**

1615 Washington Street, East, Suite 301  
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**MINUTES  
WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD  
MAY 11<sup>th</sup>, 2000**

**I. General**

On May 11, 2000, a quorum of the members of the Environmental Quality Board (hereinafter referred to as the "Board") met at its offices located at 1615 Washington St. E., Charleston, West Virginia. Ed Snyder, Co-Chair, called the Environmental Quality Board meeting to order at 9:00 a.m.

Other Board members present were as follows:

Don Tarter, Co-Chair  
Charles Jenkins  
David Samuel

**II. Rulemaking**

1. 46 CSR 1 - Requirements Governing Water Quality Standards

A. Body Burden:

Lew Baker requested that the Board address the Fish Tissue Criteria for dioxin, PCBs and mercury. However, this request was received by the Board after the meeting notice with agenda, had been filed with the WV Secretary of State's Office. Mr. Baker briefly presented his concerns and asked the Board to review the EPA Region III Risk-Based Concentration Table. Further discussion of this issue will be held during the June 2, 2000, Environmental Quality Board meeting.

B. Blackwater River - Decision on Use Removal application:

Initially, the Board received a Use Attainability Analysis from the Blackwater River Watershed Association regarding the upper Blackwater River and a request for a use removal of the trout water designation. Subsequently, the Board heard presentations from the environmental community, the West Virginia Rivers Coalition, and the WV Division of Natural Resources objecting to such removal. In addition, the Board has provided ample opportunity for the general public to provide comments. The Board members reviewed all of the pertinent information and materials.

Whereupon, Dr. Samuel moved and Dr. Tarter seconded that the Board deny the Blackwater River Watershed Association's trout water use removal request and the motion passed unanimously 4 to 0.

The Division of Natural Resources (DNR) and the West Virginia Rivers Coalition made a recommendation to the Board that the designated use of the lower Blackwater River, currently warm water, be amended and that the trout water use designation be adopted in the lower portion of the Blackwater River. The basis for that recommendation was information provided by both the DNR and the WV Rivers Coalition regarding the improvements that have been made to the lower Blackwater and the fact that there are now trout in the stream. The Board did not receive any negative comments regarding this proposed change.

Whereupon, Dr. Samuel moved and Dr. Tarter seconded that the current warm water use designation for the lower Blackwater River be changed to a trout water designation and the motion passed unanimously 4 to 0.

C. Variance - §7.2.d.16.2 Harmon Creek Water Quality Criteria (Weirton Steel) - Discussion and Decision on socioeconomic variance request:

In 1997, Weirton Steel was granted a variance from certain water quality standards at the Harmon Creek Outfall. That variance was for several parameters, including temperature, cyanide, phenols, iron, lead and zinc, and was based on socioeconomic parameters. The Board, when granting this variance in 1997, directed Weirton Steel to improve the discharge into Harmon Creek and to provide

the Board with annual reports summarizing the water quality of the discharge and the progress that the Company has made to improve it.

Weirton Steel has asked the Board for a three year extension of the variance based on the socioeconomic effects of compliance with West Virginia Water Quality Regulations at Harmon Creek.

Ms. Chatfield informed the Board that the USEPA is still reviewing the socioeconomic information but has not yet completed that review. The Board received a copy of a memo from Naresh Shaw of the Office of Water Resources, which contains comments on the socioeconomic evaluation and comments on the discharges at Harmon Creek. A copy of this memorandum is made a part of and attached to these minutes as Exhibit "A".

Randy Sovic, of the Office of Water Resources provided the Board with Weirton Steel's discharge monitoring reports for the period of October, 1999 through March, 2000 (A copy of these reports has been attached to the Weirton Steel variance application). During that six month period Weirton Steel reported 97 violations, demonstrating that their permit/order compliance is poor. Mr. Sovic stated that while the DEP is not protesting the Weirton Steel socioeconomic variance, the Agency did want to make the Board aware of the serious noncompliance issues occurring at that site.

Dr. Samuel noted that permit/order noncompliance issues are not related to the socioeconomic variance request. Whereupon, Dr. Tarter moved and Dr. Samuel seconded that the Board grant Weirton Steel's variance request, and the motion passed 3 to 1, with Dr. Snyder voting against the motion.

D. USEPA recommendations from June 1999 letters to Board:

1. Aluminum - Decision on proposed aluminum criteria:

During the last triennial review the Board removed the chronic value of 87 µg/l for aluminum. However, EPA has disapproved the removal of that chronic aluminum value from the rule. The Office of Water Resources has submitted the data collected over the past year which demonstrates violations of the chronic and acute criteria in streams throughout the state. Benthic data has also been collected.

Efforts to correlate the benthic data and aluminum data to determine the impact of the high aluminum values on aquatic life have been unsuccessful.

Over the past several months information has been provided by the regulated community regarding use of a dissolved criterion versus a total criterion for aluminum.

Whereupon, Dr. Jenkins moved and Dr. Samuel seconded that the Board propose the criterion for aluminum be the dissolved standard of 87 chronic and 750 acute, and the motion passed unanimously 4 to 0.

## 2. Antidegradation - Discussion and Decisions:

The Board was provided with a letter dated May 10, 2000, from the USEPA regarding the schedule to resolve the outstanding Water Quality Standard issues. In addition, the Board received written comments from Kathy Beckett and the WV Rivers Coalition regarding their opinion of the Stakeholder process. Copies of these letters are attached to and made a part of these minutes as Exhibit "B".

Whereupon, the Board began to address the items contained in Appendix F of the Antidegradation Implementation Procedures draft document. These minutes reflect only language approved by the Board.

### **46-1-4A. Applicability**

After discussion with various members of the Antidegradation Stakeholders group, Dr. Samuel moved and Dr. Tarter seconded that the antidegradation procedures apply only to new and expanded regulated activities, and that the following language be adopted:

4A.1. The antidegradation implementation procedures herein are intended to apply to new and expanded regulated activities that have the potential to affect existing water quality. The specifics of the review called for in the regulation will depend upon the existing and designated uses of the waters or segments of waters that would be affected, the level of protection (tier) assigned to the applicable waters or segment of water, and the extent to which water quality would be degraded.

The motion passed 3 to 1, with Dr. Snyder voting against the motion.

The following section, 4A.2, achieved a consensus vote by the Antidegradation Stakeholders group and was adopted by the Board:

4A.2. Nonpoint source activities will be deemed to be in compliance with antidegradation requirements with the achievement of cost effective and reasonable best management practices in accordance with section 4.1.b, herein.

That section (4.1.b of the rule) provides that “In addition, the Director shall assure that all new and existing point sources shall achieve the highest established statutory and regulatory requirements applicable to them and shall assure the achievement of cost-effective and reasonable best management practices for non-point source control. The Director shall assure that Best Management Practices (BMPs) are sufficient to satisfy the requirements of the Water Quality Standards. If BMPs are demonstrated to be inadequate to meet Water Quality Standards, the Director shall work with appropriate authorities to require that BMPs be revised or adopted to assure compliance with those standards or shall require the activity causing the non-point source pollution to cease.”

**NOTE: 4A.3 revised and moved to section 4C.6.c. and 4C.2.I**

The following section, 4B, achieved a consensus vote by the Stakeholders and was adopted by the Board:

**46-1-4B. Tier 1 Protection Review Procedures.** Tier 1 protection requires that existing uses and the level of water quality to protect those uses be maintained and protected. Tier 1 protection applies to all waters of the state.

4B.1. The following procedures shall be performed by the Director when reviewing all activities subject to this rule.

4B.1.a. Determine the existing uses of the water.

4B.1.b. Identify the designated uses in §46-1-6 herein which apply to the water in question.

4B.1.c. Determine whether the water currently supports, or has

supported since November 28, 1975, an existing use other than the designated uses in section §46-1-6, or that the water quality is suitable to allow the use to be attained unless there are physical problems, such as substrate or flow that prevent the use from being attained.

4B.1.d. Before any final action is taken, provide public notice through the appropriate Class I or Class II legal advertisement in a qualified newspaper with the largest circulation for the county where the activity will occur. The notice will identify the action being considered, list all existing uses identified of the water, and call for comments from the public regarding other known existing uses. The cost of such publication will be borne by the applicant.

4B.2. The Director shall ensure maintenance and protection of water quality necessary to protect existing uses.

After discussions with various members of the Stakeholder group, Dr. Snyder moved and Dr. Jenkins seconded that the Board adopt the following language:

4B.2.a. Where designated uses of the waterbody are impaired there shall be no degradation of water quality with respect to the parameters of concern that are causing the impairment. To ensure the standard is met, the Director shall not allow lowering of water quality of a parameter of concern that prevents the attainment of the designated use or of the applicable water quality criterion.

4B.2.b. Where water uses are not impaired and a determination is made that the designated uses appropriately reflect the existing uses of the water, controls shall be applied as necessary to ensure that the appropriate numeric and narrative criteria established in this rule will be met. If a use is impaired the activity shall conform with the requirements of 4B.2.a.

The motion passed unanimously 4 to 0.

After discussions with various members of the Stakeholder group, Dr. Snyder moved and Dr. Jenkins seconded that the Board adopt the following language:

4B.2.c. Where the Director determines that the designated uses do not appropriately reflect the existing uses of the water the Director shall determine

whether numeric criteria for a related designated use would maintain water quality sufficient to protect the existing use.

The motion passed unanimously 4 to 0.

After discussion with various members of the Stakeholder group, Dr. Samuel moved and Dr. Tarter seconded that the Board adopt the following language:

4B.2.c.1. Where it is necessary to establish new criteria to protect an existing use, a proposal that appropriate revisions to the designated uses be adopted into the water quality standards shall be made to the Board at the earliest opportunity. However, no delay in Tier 1 water protection shall occur pending the reclassification action.

The motion passed unanimously 4 to 0.

The following Section, 4B.3, achieved a consensus vote by the Antidegradation Stakeholders group and was adopted by the Board:

4B.3. The Director shall document all antidegradation review findings regarding uses of waters and protection of those uses.

After discussion with various members of the Stakeholder group, Dr. Samuel moved and Dr. Tarter seconded that the Board adopt the following language:

4B.4. Trading. A proposed activity that will result in a new or expanded discharge in a water subject to Tier 1 protection may be allowed where the applicant agrees to implement or finance upstream controls of point or nonpoint sources sufficient to offset the water quality effects of the proposed activity. The basis of the trade will be documented through a Trading Assessment Procedure. Such documentation shall include an appropriate margin of safety, which, after taking into account the uncertainties associated with any proposed nonpoint source controls, as well as variability in effluent quality for point sources shall ensure that improvement in water quality occurs as a result of the trade. A trade may be made between more than one stream within a watershed where removing a discharge in one stream directly results in improved water quality in another stream, provided that no degradation results to any stream within the watershed.

The motion passed unanimously 4 to 0.

Whereupon, the Board opened the floor for public comment. At the conclusion of the public comments, Dr. Jenkins left the meeting.

**46-1-4C. Tier 2 Protection Review Procedures (High Quality Waters)** See section 46-1-4.1.b for a description of high quality waters.

The following sections, 4C.1 thru 4C.2.a.1, achieved a consensus vote by the Stakeholders and were adopted by the Board:

4C.1. Determine whether a water is a Tier 2, high quality water.

4C.1.a. All waters not included in Tiers 2.5 and 3 will be considered high quality waters unless it can be demonstrated that the water quality is not equal to or better than necessary to attain both fishable (Category B) and swimmable (Category C) uses. If either the fishable or swimmable use is attained, the water is a high quality water.

4C.2. Determine whether the proposed activity will result in significant degradation of water quality.

4C.2.a. Significant degradation will be determined for any parameter of concern to be affected by the proposed activity on a parameter by parameter basis . The proposed activities will be considered to result in significant degradation and be subject to further Tier 2 requirements where significant degradation is projected for one or more parameters.

4C.2.a.1. For chemical condition evaluations

After discussions with various members of the Stakeholder group and citizens in the audience, Dr. Snyder moved and Dr. Tarter seconded that the staff draft language for 4C.2.a.1.A. which provides a 5% de minimis at critical flow conditions using assimilative capacity or ambient concentration, whichever is most protective. The motion passed unanimously 3 to 0. The Board will review this draft language during the June 2, 2000, meeting.

The following section achieved a consensus vote by the Stakeholders and was adopted by the Board:

4C.2.a.1.A.1. For non-precipitation induced discharges the maximum permitted flow or maximum flow specified in the application for industrial activities and average design flow for municipal activities combined with the 7Q10 flow of the receiving stream.

After discussions with various members of the Stakeholder group, Dr. Snyder moved and Dr. Tarter seconded that section 4C.2.a.1.A.2. be removed, and the motion passed unanimously 3 to 0.

After discussions with various members of the Stakeholder group, Dr. Samuel moved and Dr. Tarter seconded that the Board adopt the language contained in the following sections (4C.2.a.2 thru 4C.2.a.D) and the motion passed 3 to 0:

4C.2.a.2. The following circumstances shall not be subject to further Tier 2 review requirements:

4C.2.a.2.A. Temperature: any new or expanded activity resulting in a thermal discharge where the temperature of the discharge will not cause a violation of the applicable temperature criteria in section 46-1-8.28 through 46-1-8.28.4 (Appendix E of this rule) or where the discharge is otherwise consistent with section 316(a) of the federal Clean Water Act.

4C.2.a.2.B. Fecal coliform - any new or expanded activity resulting in a discharge provided that the fecal coliform concentrations are established as 200/100 ml monthly average and 400/100 ml daily maximum.

4C.2.a.2.C. pH - Any new or expanded activity resulting in a discharge where the pH of the discharge is in the range of 6.0 to 9.0 standard units. In addition, any pH permitted at greater than 9.0 standard units will not be considered significant degradation if the sole purpose of the discharge is to improve the quality of the receiving stream, and the discharger demonstrates and the Director finds that such improvement would occur.

4C.2.a.2.D. Dissolved Oxygen (DO) - any new or expanded activity resulting in a discharge where any reduction of water quality of

less than 0.4 ppm at maximum DO sag based upon an appropriate wasteload allocation model, unless the reduction is projected to cause a violation of 46 CSR 1-8.11 through 8.11.3.

After discussions with various members of the Stakeholder group, Dr. Tarter moved and Dr. Samuel seconded that section 4C.2.a.2.E. (Turbidity exception) be removed from the rule and the motion passed unanimously 3 to 0.

After discussions with various members of the Stakeholder group, Dr. Samuel moved and Dr. Tarter seconded that the Board adopt the following language:

4C.2.a.2.F. Reissuance of an individual NPDES permit where no new increase in permitted levels will occur. Provided that the Director may require antidegradation review procedures be applied where individual circumstances warrant.

The motion passed unanimously 3 to 0.

After discussions with various members of the Stakeholder group, Dr. Snyder moved and Dr. Tarter seconded that the Board remove section 4C.2.a.2.G from the rule, and the motion passed 2 to 1, with Dr. Samuel voting against the motion.

After discussions with various members of the Stakeholder group, Dr. Snyder moved and Dr. Tarter seconded that the Board amend section 4C.2.a.2.H. of the proposal. The exemption will be limited to public drinking water and municipal waste water systems and the exemption will not apply to parameters for which there are existing water quality criteria. The motion passed unanimously 3 to 0. The Board directed the staff to draft the appropriate language for the Board's consideration during the June 2, 2000, meeting.

After discussions with various members of the Stakeholder group, Dr. Samuel moved and Dr. Tarter seconded that the Board adopt the following language:

4C.2.a.2.I A new or increased discharge of a substance used to treat zebra mussels and asiatic clams in an intake water pipe or structure if the new or increased discharge will not cause adverse effects on human health and aquatic life outside any applicable mixing zone except in areas where federally threatened and endangered species are known to occur.

The motion passed unanimously 3 to 0.

Whereupon, the Board opened the floor for public comments.

E. Triennial Review - Update on comments received by the Board:

The Board members were provided with a summary of the triennial review comments. Because of time constraints the Board was unable to address these comments and directed that this matter be placed on the June 2, 2000, Board meeting.

### III. Appeals

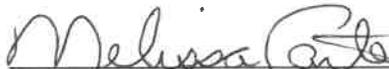
Ms. Charles presented the Appellee's Motion to Dismiss Appellants' Estoppel, Tax and Equal Protection in Appeal #00-02-EQB (Ravenswood). Whereupon, Dr. Snyder moved and Dr. Tarter seconded that the Appellee's motion be granted, and that motion passed unanimously 3 to 0.

Ms. Charles presented Appellee's Motion to Consolidate with Appeal #00-01-EQB (Ripley) and Motion to Continue Hearing in Appeal #00-02-EQB (Ravenswood). Whereupon, Dr. Tarter moved and Dr. Samuel seconded that Appeals #00-01(Ripley) and #00-02(Ravenswood) be consolidated and that the hearing on the matter be continued, and the motion passed unanimously 3 to 0.

Ms. Charles presented the status reports in Appeal #99-09, #99-10, #99-11-EQB (Knouse). After reviewing the reports, the Board determined that significant progress toward a settlement was not reported and that the hearing on the consolidated appeals will be held on June 1, 2000.

WHEREUPON, 4:10 p.m., Dr. Snyder moved and Dr. Samuel seconded that the May 11, 2000, Environmental Quality Board meeting be adjourned, and the motion passed unanimously 3 to 0.

I hereby certify that the forgoing is a true and correct record of the proceedings of the meeting held on May 11, 2000, by the West Virginia Quality Board. The minutes were approved by the Environmental Quality Board on June 1<sup>st</sup>, 2000.

  
\_\_\_\_\_  
Melissa Carte, Clerk

# interoffice MEMORANDUM

to: Randy Sovic  
 from: Naresh R. Shah  
 subject: Weirton Steel - Outlet 004 & Harmon Creek  
 date: May 8, 2000

As a follow-up to Weirton Steel's request for continuation of site-specific water quality variance for next three years, I reviewed their submittal ( to EQB) titled as Financial And socioeconomic Effects of Compliance with West Virginia Water Quality Regulations At Harmon Creek, dated April 14, 2000. This document was prepared by Dresser Holdings & Consulting of McLean, Virginia. Based on the information provided in this document, Weirton Steel satisfies financial tests considered by the EPA. However, please note that I do not have any expertise in the economic analysis. Note also that C&E upgrades considered in the economic analysis (Appendix A) include Gravity Filter for total iron removal & cooling tower for temperature reduction. The report deals with either complete solution (treatment) or no solution. It does not deal with any optimization of treatment (% incremental removal versus % additional cost) scheme or any at-source treatment ( upgrade or new ).

I have also reviewed Weirton Steel's Discharge Monitoring Reports for the period of October, 1999 through March, 2000. During six months, Weirton Steel has reported 97 violations for Outlet 004 and the related internal outlets (104,204,304,404 & 504). Thus, their permit/order compliance is poor. This is of great concern to the agency. Also, many times, their discharges from Outlet 004 cause oily sheen and discoloration in Harmon Creek in violation of Section 3 of Series 1 of WV Legislative Rules which is also a permit condition. The agency urges the EQB to require Weirton Steel to address permit/order non-compliance issues expeditiously while granting Weirton Steel's site-specific water quality variance for Harmon Creek.

cc: Allyn Turner, Chief, OWR  
 Mike Zeto, Chief , OEE  
 Jerry L. Ray, Asst. Chief, Permits  
 Pravin G. Sangani, Leader, Engg. Branch

Libby - FYE - Note 2nd Edition - Naresh  
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Date	5/9	# of pages	1
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Exhibit "A"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

MAY 10 2000

Edward Snyder, Ph.D. and  
Donald Tarter, Ph.D., Co-Chairs  
Environmental Quality Board  
1615 Washington Street, East, Suite 301  
Charleston, West Virginia 25311-2126

Dear Dr. Snyder and Dr. Tarter:

The Environmental Protection Agency (EPA) has reviewed your letter of April 3, 2000 which provides a schedule to resolve outstanding Water Quality Standard issues. EPA is extremely disappointed that the Environmental Quality Board (the Board) has not completed the necessary revisions to remedy the disapprovals in the state's standards as suggested in our letter from Michael McCabe, Regional Administrator and Charles Fox, Assistant Administrator dated June 8, 1999. As you are aware, EPA urged the Board to resolve the outstanding disapprovals in West Virginia's Water Quality Standards before April 1, 2000.

As explained in your letter, the Board is constrained by the schedule of the West Virginia Legislature in terms of when proposed revisions can be adopted. It is also our understanding that the deadline for filing any changes for the next legislative session is September 1, 2000. Although the Board has a few months until this deadline, a resolution package must be filed as soon as possible, so not to delay the regular rulemaking process another year.

Water Quality Standards are the foundation to water quality improvement. They serve as the basis for a variety of requirements provided under the Clean Water Act, namely National Pollutant Elimination Discharge System (NPDES) permits, section 303(d) reports, and Total Maximum Daily Loads (TMDLs). Thus, the effectiveness of a state or tribal water quality management program is critically dependent on the quality of its Water Quality Standards. For this reason, the Board's inability to adopt approvable revisions to the Water Quality Standards is detrimental to the efforts of most West Virginia's water quality protection programs.

With the recent finalization of EPA's regulations on how we review and approve Water Quality Standards, otherwise referred to as the "Alaska Rule," EPA is currently in the process of initiating or finalizing Federal promulgation for outstanding disapprovals in other states and tribes. We have held or are scheduled to hold public meetings on our promulgation in Alabama, California, Iowa, and Kansas. As such, West Virginia is now a candidate for Federal

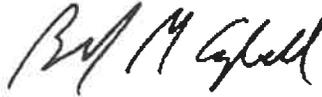
Customer Service Hotline: 1-800-438-2474

Exhibit "B"

promulgation. EPA Region III has already recommended to the Administrator that she exercise her discretionary authority under the Clean Water Act to identify and promulgate implementation procedures for West Virginia's Antidegradation Policy.

While we understand that the Board is taking actions which may resolve these issues, EPA must be prepared to take direct actions to ensure that these issues will be resolved in a timely manner. We encourage the Board to keep us informed of future developments. If you have any questions, please feel free to contact Mr. Robert Koroncai of my staff at (215) 814-5730.

Sincerely,



Bradley M. Campbell  
Regional Administrator

cc: Mike Castle, Commissioner, WV DEP

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May 11, 2000

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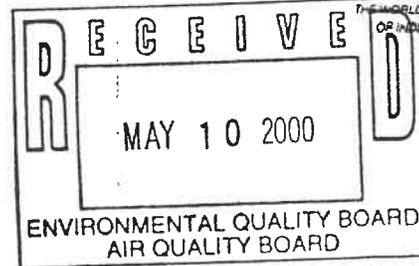
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**Ed Snyder, Co-Chairman**  
**Don Tarter, Co-Chairman**  
**Elizabeth Chatfield, Technical Support**  
**Environmental Quality Board**  
**1655 Washington Street**  
**Charleston, WV 25311**



Re: EPA Review of Antidegradation Implementation  
Policy Stakeholder Recommendations

Dear Libby and Gentlemen:

In discussions with Bob Koroncai, U.S. EPA Region III yesterday, I was surprised to hear that neither Bob nor Mary Kuo had received copies of Appendix F as it has been revised by the Stakeholders. This issue came to light when I proposed that Mary provide follow-up with regard to her oral comments about the exclusions and waiver provisions of the Stakeholder draft. Koroncai correctly stated that EPA was not going to take a position with regard to any provisions of the proposed Appendix F unless and until they had received the full package. I agree with him that any comments Mary may have offered would be difficult to address since she did not get an opportunity to review those provisions within the context of the entire proposal.

It is disappointing to now learn that EPA was not kept abreast of the Stakeholder Group's efforts. Having understood this is the case, it is clear that input from EPA at this early stage will not be forthcoming. This situation is unfortunate since time is of the essence and participation from EPA could have been of some benefit. I would welcome any correction to my understanding if that is warranted.

Very truly yours,

A handwritten signature in cursive that reads "Kathy G. Beckett".

Kathy G. Beckett

/KGB

cc: Antidegradation Stakeholder Group  
Robert A. Koroncai  
Mary Kuo



## WEST VIRGINIA RIVERS COALITION

May 11, 2000

Dr. Edward Snyder and Dr. Donald Tarter, Co-Chairs  
West Virginia Environmental Quality Board  
1615 Washington Street East, Suite 301  
Charleston, WV 25311-2126

Dear Dr. Snyder and Dr. Tarter:

The West Virginia Rivers Coalition (WVRC) is most disappointed with the Stakeholder Committee process and the direction the development of West Virginia's antidegradation implementation policy has taken.

The Stakeholder Committee process has been unbalanced, proceeded in a manner that does not maintain the health of West Virginia's waters as its primary focus, and has developed an antidegradation implementation policy that does not adhere to the federal Clean Water Act. It is our hope that you will not accept any implementation policy provisions that stray from federal standards.

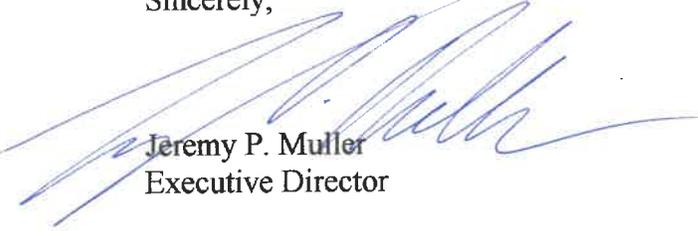
WVRC's concerns include:

- 1) The Stakeholder Committee implementation policy applies only to new and expanded permits. If an existing permit comes up for renewal, it would not have to undergo an antidegradation review. This grandfathers all existing facilities and operations from having an antidegradation review – forever. This will give a permanent advantage to existing polluting industries.
- 2) The notion that a de minimus standard for degradation can be established. This is contrary to the intent of this portion of the law. The intent is to keep clean waters clean, and to protect and maintain existing uses. The intent is not to determine the degree to which waters can be maximally degraded.
- 2a) The failure to address cumulative impacts prevents the policy from protecting our waters. By supporting a de minimus the EQB has effectively prevented the clearest way to address cumulative impacts.

- 3) A number of exceptions or variances have been created which are misplaced. They should not be a part of the implementation policy.
- 4) The intergovernmental coordination process is unclear in its ability to function appropriately and to meet the requirement to fully protect existing uses.

We believe that the West Virginia Environmental Quality Board must develop a policy in accordance with federal standards. The West Virginia Rivers Coalition would like to reiterate our request that no portions of the Stakeholder Committee antidegradation implementation policy be approved if they do not adhere to the standards set by the federal Clean Water Act.

Sincerely,



Jeremy P. Muller  
Executive Director