

**BUREAU OF THE ENVIRONMENT
ENVIRONMENTAL QUALITY BOARD**

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**MINUTES
WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
SEPTEMBER 25, 2000**

I. General

On September 25, 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. Chairman Snyder called the meeting to order at 9:00 a.m.

Board members present were as follows:

Ed Snyder, Chair
Bob Jenkins
Betsy Dulin

Absent were Board members:

Cameron Hackney
Dave Samuel

Staff members present were as follows:

Libby Chatfield
Becky Charles
Melissa Carte

Whereupon, the Board addressed the issues set forth in the Agenda as follows:

II. Appeals

1. Appeal #00-05-EQB (Sparks):

Ms. Charles informed the Board that Ms. Sparks, who is the Appellant in Appeal #00-05-EQB(Sparks) has withdrawn her appeal of the NPDES WV 1017420 permit after speaking with Chris Negley, attorney for the Division of Environmental Protection. The appeal has now been removed from the Board's docket.

2. Appeal #00-06-EQB (Hedrick):

The Board conducted a hearing in Appeal #00-06-EQB (Hedrick). This hearing was recorded and transcribed by a certified court reporter. A copy of the transcript of the hearing will be made available to the parties of the appeal and also retained in the Board's office.

III. Rulemaking

1. 46 CSR 1 - Requirements Governing Water Quality Standards

a.) Nutrient Criteria:

Ms. Chatfield informed the Board that as part of the Federal Clean Water Action Plan, the USEPA is attempting to expedite the schedule for developing nutrient criteria. Although this is a national effort, the USEPA has broken the process down on a regional basis and delegated the task to each of the regional offices. Region III has been working with the states in that region to begin to compile data and try to establish the most appropriate criteria for measuring nutrients and associated problems.

Ms. Chatfield attended a meeting of the Regional Technical Assistance Group (RTAG) for Region III in Philadelphia regarding the development of nutrient criteria. The USEPA has developed a Nutrient Criteria Technical Guidance Manual which establishes ambient water quality recommendations both for rivers and streams, and for lakes.

Ms. Chatfield received a draft of the manual during the meeting in Philadelphia. In this manual the USEPA has identified the criteria which they would like to recommend for inclusion for nutrient criteria. The criteria for streams and rivers would include total phosphorus, total nitrogen, chlorophyll A and turbidity. For lakes the criteria would include phosphorus, total nitrogen, chlorophyll A and secchi depth. They have established these recommendations based on reference conditions.

The next step in the process is to determine how states will use the recommended criteria. The options are for the states to either adopt these recommendations as nutrient criteria or to use these reference conditions as a basis for establishing and adopting the states' own appropriate nutrient criteria.

The USEPA Region III will be conducting another meeting of the RTAG and have invited the technical specialists who understand the data and are familiar with the waters of the region in order to evaluate and determine whether the reference conditions used by the USEPA to establish the nutrient criteria recommendations, accurately reflect the reference conditions of the region.

b.) Update on the filing of the Board approved proposed Legislative rule:

Ms. Chatfield informed the Board that the staff completed the changes made to the proposed rule during the August 17th, 18th, and 21st, Board meetings and that the rule was filed in the Secretary of State's office and the Legislative Rulemaking Review Committee on September 1, 2000. The Committee will probably place the rule on the agenda for the January 2001 Legislative Interim meeting.

Ms. Charles informed the Board members that the proposed rule will be placed on the Board's temporary web site as soon as possible so that it will be easily accessible to the general public. Paper copies of the rule are also available from the Board office.

c.) Continuing Planning Process:

The WV DEP is in the process of developing the State's Continuing Planning Process (CPP) document. Randy Sovic, of the DEP, is requesting assistance from the Board regarding certain elements of the CPP including the language for the

water quality standards triennial review process and the implementation sections of the State's CPP.

Ms. Chatfield provided the Board with a memo from Mr. Sovic which contains the language used in Pennsylvania's Continuing Planning Process document which addresses the process for establishing and assuring adequate implementation of new or revised water quality standards, including schedules of compliance, under Section 303(c) of the Act. He has requested that the Board review the language in Pennsylvania's CPP to determine whether that language, with some modification, could be used in West Virginia's CPP.

d.) Remining Variance Application:

Ms. Chatfield informed the Board that the Pritchard Mine company will be submitting a remining variance application. Representatives of the company would like to appear before the Board on October 20, 2000. The Board's agenda for that meeting is very busy. However, the Board members agreed to convene the October 20, 2000, Board meeting at 8:00 a.m. in order to provide the Pritchard Mine company with the opportunity to appear before the Board prior to the submission of their remining variance application.

e.) Pat's Branch:

Ms. Chatfield informed the Board that she has been working with representatives from the DEP's Office of Water Resources and an NPDES permittee on Pat's Branch on an issue involving water quality standards. She anticipates that they will be requesting site specific relief from a water quality parameter from the Board in the near future. This matter will probably appear on the Board's November or December meeting agenda.

f.) Triennial Review:

Ms. Chatfield reminded the Board members that the Board is scheduled to conduct its triennial review during the upcoming year. The Board has received comments on several issues which were not addressed in the current proposed legislative rule.

g.) Public "A":

Representatives of the Bureau for Public Health are scheduled to appear before the Board during the November Board meeting to discuss the Bureau's process for delineation of the Zones of Critical Concern.

III. Administrative Matters

1. Review and approval of the August 17th, 18th and 21st, 2000, meeting minutes:

The minutes of the August 17th, 18th and 21st Board meeting were presented to the Board for consideration. Whereupon, Dr. Jenkins moved and Ms. Dulin seconded that the minutes of the August 17th, 18th, and 21st, Board meetings, as written, be adopted and the motion passed unanimously 3 to 0.

2. Review and approval of the September 8, 2000, meeting minutes:

The minutes of the September 8, 2000, Board meeting were presented to the Board for consideration. Whereupon, Dr. Jenkins moved and Ms. Dulin seconded that the minutes of the September 8th Board meeting, as written, be adopted, and the motion passed unanimously 3 to 0.

3. Personnel Matters:

The Board members were reminded that the staff's 360° evaluations are scheduled to be performed during the month of November.

WHEREUPON, Dr. Jenkins moved and Ms. Dulin seconded that the September 25, 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 September 25, 2000, by the West Virginia Environmental Quality Board. The minutes were approved by the Environmental Quality Board on 9.20, 2000.



Melissa Carte, Clerk