

**BUREAU OF THE ENVIRONMENT
ENVIRONMENTAL QUALITY BOARD**

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**MINUTES
WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
NOVEMBER 21, 2000**

I. General

On November 21, 2000, a quorum of the members of the Environmental Quality Board (hereinafter referred to as the "Board") met by telephone conference. Chairman Snyder called the Environmental Quality Board meeting to order at 10:00 a.m.

Board members present were as follows:

Ed Snyder, Chair
Bob Jenkins
Cameron Hackney

Absent were Board members:

Betsy Dulin
Dave Samuel

Staff members present were as follows:

Libby Chatfield
Becky Charles
Melissa Carte

The purpose of the meeting was to continue the review of the comments regarding the Little Boyd Coal Company Remining Variance request that were received by the Board during the public hearing and comment period. This review included consultation with Ken Politan of the West Virginia Division of Environmental Protection (DEP), and Dan Sweeney of the US Environmental Protection Agency (USEPA). In addition, representatives from Little Boyd Coal Company were also present.

During the November 16, 2000, EQB meeting, the Board members requested input from the DEP and the USEPA regarding Little Boyd's proposal to develop alternate criteria for manganese and pH which will include a provision to measure compliance based on a twelve month in-stream average.

Ms. Chatfield informed the Board that she had discussed the issue with Ken Politan and Dan Sweeney who presented the following language to the Board for consideration:

Proposed Alternative Water Quality Criteria

This alternative water quality criteria applies to Lick Fork of Grapevine Creek at location SW4-3 on the applications of the Little Boyd Coal Company for a remining permit (SMA 4006-00) and an NPDES permit (WV1018931) for the period of initial mining activity until final bond release.

Iron - No variance requested

Manganese - In order to assure no degradation of stream quality the following shall apply:

- *7.87 mg/l maximum at all times. This is based on a 5% reduction of the single worst case manganese level (8.28 mg/l) recorded for 26 samples collected bi-weekly from December 1998 through December 1999 at location SW4-3.*
- *4.42 mg/l average over any 12 consecutive month period. This is based on a 5% reduction of the average manganese level (4.65 mg/l) for 26 samples collected bi-weekly from December 1998 through December 1999 at location SW4-3. The first measure of compliance involves averaging all bi-weekly samples taken over the first 12 months of activity and comparing the result to the 4.42 mg/l limit. At the end of the 13th month, samples collected from the 2nd through the 13th month are similarly averaged and compared to the 4.42 mg/l limit. This continues in a similar manner until final bond release.*
- *Trend analysis and response Although there is no applicable average limit during the first 12 months, there may be a trend of high concentrations which would indicate unlikely compliance with the average limit at the end of this period. Therefore, at the end of each 3 month monitoring period, the average manganese concentration of all samples taken since initial project activity shall be calculated. If the resulting average is more than 6.6 mg/l (50% above the average 4.4 mg/l limit), (if you exceed that number for a three month period an order shall be issued by the Division under the WV Water Pollution Control Act to require the operator to submit a revised reclamation plan and/or NPDES*

abatement plan which describes an abatement and/or treatment procedure which will restore compliance with the trend analysis.)

pH - In order to assure no degradation of stream quality the following shall apply:

- *3.8 su minimum level allowable at any time This is based on a 25% improvement of the worst case reading (3.7 su) recorded for 26 samples collected bi-weekly from December 1998 through December 1999 at location SW4-3.*
- *4.4 su average over any 12 consecutive month period. This is based on a 25% improvement of the numeric value of the hydrogen ion of the average pH level (4.27 su) for 26 samples collected bi-weekly from December 1998 through December 1999 at location SW4-3. The first measure of compliance involves averaging all bi-weekly samples taken over the first 12 months of activity and comparing the result to the 4.4 su limit. At the end of the 13th month, samples collected from the 2nd through the 13th month are similarly averaged and compared to the 4.4 su limit. This continues in a similar manner until final bond release.*
- *Trend analysis and response Although there is no applicable average limit during the first 12 months, there may be a trend of low pH values which would indicate unlikely compliance with the average limit at the end of this period. Therefore, at the end of each 3 month monitoring period, the average pH value of all samples taken since initial project activity shall be calculated. If the resulting average is less than 4.1, then a brief report shall be provided to the Department of Environmental Protection within 15 days indicating the likely reason for the low pH level and steps taken or planned to be taken to increase the pH level.*

The Board members discussed the method used by the Company to calculate the proposed pH standard. The Board contemplated directing the Company to utilize the same equation used to establish the average pH concentration of the twenty-six samples collected twice monthly from December 1998 through December 1999. However, after further discussion it was determined that using that same method would result in a less protective standard for pH. Consequently, the Board approved the method used to calculate the pH as originally proposed by Little Boyd Coal Company.

The Board directed that the Little Boyd Coal Company sample the receiving stream twice monthly, with twelve (12) days between each sampling period for a minimum of twenty-four samplings per year.

Further, the Company must file with the Board, on an annual basis, copies of the trend analysis, a benthic survey and any other pertinent data reported. In addition, this report shall include a summary of data from all stream monitoring and discharge monitoring points.

In accordance with the provisions of 46 CSR 6, Procedural Rules Governing Site-Specific Revision to Water Quality Standards, the Board determined that Lick Fork does not currently meet the applicable numeric water quality criteria for iron, manganese or pH; that the remining activity cannot be carried out in compliance with the numeric water quality criteria for iron, manganese or pH; and that the reclamation practices that the Company is proposing in the remining variance request are consistent with best management practices and will result in the potential for improved water quality in Lick Creek. Nothing the Board has reviewed indicates that degradation of existing in-stream water quality will result from the activities associated with this remining project.

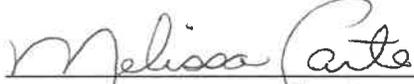
Whereupon, Dr. Jenkins moved and Dr. Hackney seconded that the Board grant the Little Boyd Coal Company remining variance request, and the motion passed unanimously 3 to 0.

The Board directed Ms. Chatfield to draft an Order granting the remining variance which incorporates the elements of Dan Sweeney's proposal and which also includes language which reflects the other issues decided by the Board during the meeting.

Whereupon, Dr. Jenkins moved and Dr. Hackney seconded that the Board members receive a per diem for participating in this telephone conference, and the motion passed unanimously 3 to 0.

Whereupon at 11:50 a.m., Dr. Hackney moved and Dr. Jenkins seconded that the November 21, 2000, Environmental Quality Board teleconference 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 telephone conference held on November 21, 2000, by the West Virginia Environmental Quality Board. The minutes were approved by the Environmental Quality Board on Dec. 18th, 2000.



Melissa Carte, Clerk