

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

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MINUTES

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD

DECEMBER 11, 2003

I. General

On December 11, 2003, a quorum of the members of the Environmental Quality Board (hereinafter referred to as the ABoard@) met at its offices located at 1615 Washington St. E., Charleston, West Virginia. Dr. Snyder, Chair, called the meeting to order at 9:00 a.m.

Board members present were as follows:

Ed Snyder, Chair
Bob Jenkins, Vice Chair
Edward C. Armbrecht, Jr.
Cameron Hackney
Scott Simonton

Staff members present were as follows:

Becky Charles
Melissa Carte

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

I. Appeals

1.) Appeal #03-13-EQB (DuPont):

Appeal #03-13-EQB (DuPont) was filed with the Board on September 10, 2003, and was scheduled for hearing during the December 11, 2003, Board meeting. However, on December 10, 2003, the parties filed a proposed agreed Order which resolves the issues of the appeal without the need for an evidentiary hearing. After reviewing the proposed Order Mr. Armbricht moved and Dr. Simonton seconded that the Board accept the proposed Order and remove Appeal 03-13-EQB (DuPont) from the Board's docket, and the motion carried unanimously 5 to 0.

2.) Appeal #03-16-EQB (GE Silicones):

Appeal #03-16-EQB (GE Silicones) was filed with the Board on October 23, 2003, and was scheduled for hearing during the December 11, 2003, Board meeting. However, on December 8, 2003, the parties filed a proposed Agreed Order which resolves the issues of the appeal without the need for an evidentiary hearing. After reviewing the proposed Order Dr. Jenkins moved and Dr. Simonton seconded that the Board accept the proposed Agreed Order and remove Appeal 03-16-EQB (GE Silicones) from the Board's docket, and the motion carried unanimously 5 to 0.

3.) Appeal 03-19-EQB (Sampson):

Appeal 03-19-EQB (Sampson) was filed with the Board on October 30, 2003, by a third party appellant. Fola Coal is the permit holder of the NPDES/Water Pollution Control Permit that is at issue in this appeal and on December 4, 2003, Fola Coal filed a Motion to Intervene in the Appeal. Pursuant to WV Code §22B-1-7(e), in any appeal brought by a third party, the permittee or regulated entity shall be granted intervenor status as a matter of right where the issuance of a permit or the permit status is the subject of the appeal. Dr. Hackney moved and Dr. Simonton seconded that Fola Coal Company, as the permit holder, be granted intervenor status, and the motion carried unanimously 5 to 0.

4.) Appeal #98-10-EQB and #98-11-EQB:

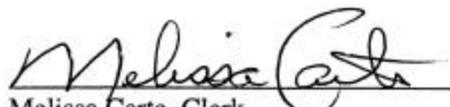
On July 19, 1999, the WV Environmental Quality Board issued a Final Order in Appeal #98-10-EQB and #98-11-EQB. This decision overturned a final order of the WV Division of Environmental Protection which imposed monthly tonnage disposal limitations upon landfills owned by Valero Terrestrial Corporation and Lackawanna Transport Company. The Board's Final Order was then appealed to the Circuit Court of Kanawha County (Civil Action #99-AA-127). On November 17, 2003, Judge Charles E. King issued a Final Order in this case which affirms the decision of the Environmental Quality Board.

5.) Appeal #03-14-EQB (Broadway Industrial Park):

Appeal #03-14-EQB (Broadway Industrial Park) was filed with the Board on September 19, 2003. The Board conducted a portion of the evidentiary hearing during December 11, 2003, Board meeting. A copy of the hearing transcript is available in the Board's office for review. The evidentiary hearing will continue during the April 2004 Board meeting.

Whereupon, Dr. Hackney moved and Dr. Jenkins seconded that the December 11, 2003, meeting of the WV Environmental Quality Board be adjourned, and the motion carried unanimously 5 to 0.

I hereby certify that the forgoing is a true and correct record of the proceedings of the meeting held on December 11, 2003, by the West Virginia Environmental Quality Board. These minutes were approved by the Environmental Quality Board on _____, 2004.


Melissa Carte, Clerk

