

## **MINUTES**

**APRIL 19, 2005**

### **I. General**

On April 19, 2005, a quorum of the members of the Air Quality Board conducted a meeting at the Board's office located at 601 57<sup>th</sup> St., SE, Charleston, West Virginia. The Chair, Tom Hansen, called the meeting to order at 9:00 a.m.

The Board members present were:

Robert Foster

Dick Calvert

Randy Curtis, designee of the Bureau for Public Health

Doug Hudson, designee of the Commissioner of the WV  
Department of Agriculture

Board Members participating by telephone were:

Mike Koon, Vice Chair

Absent Board members were:

Jean Neely

Staff members present were:

Melissa Carte, Clerk

Kathy Coleman, Administrative Secretary

\*Wendy Radcliff, the attorney assigned by the State Attorney General's office to assist the Board was present during the meeting.

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

## **I. Appeals**

### **1.) Appeal 04-06-AQB (Tech Sol):**

Appeal No. 04-06-AQB (Tech Sol) was filed with the Air Quality Board on August 6, 2004, and was scheduled for hearing during the March 15, 2005, Board meeting. However, because of continuing substantive settlement negotiations between the parties the hearing was continued until a date yet to be determined in 2005.

Further, discussions regarding the resolution of the issues of the appeal are complicated by the pendency of civil litigation between the parties currently pending in the Circuit Court of Wayne County, West Virginia. The parties of the civil litigation have agreed to resolve the case through mediation and are obligated to complete that mediation by July 25, 2005. Resolution of the civil litigation is expected to provide the basis for resolving the issues of the appeal pending before the Air Quality Board without the need for an evidentiary hearing.

In order to enable the Board to determine whether an evidentiary hearing regarding the issues of Appeal No. 04-06-AQB is necessary and when such hearing should be scheduled, the Appellant was directed to file a written status report with the Board by April 1, 2005, May 1, 2005, June 1, 2005, July 1, 2005 and August 1, 2005. The Board members were provided with a copy of the April 1, 2005, Status Report during the April 19, 2005, Board meeting.

### **2.) Appeal No. 05-01-AQB (David White):**

Appeal No. 05-01-AQB (David White) was filed with the Board on February 22, 2005, and is in regards to Permit R30-039-2004 which was issued to Bayer CropScience by the WV Department of Environmental Protection's Division of Air Quality on January 21, 2005. The evidentiary hearing in Appeal No. 05-01-AQB (David White) was conducted during the April 19, 2005, Board meeting. A transcript of the evidentiary hearing is available in the Board's office for review.

## **II. Administrative Matters**

### 1.) Review and Approval of the March 15, 2005, Board Meeting Minutes:

Whereupon, the minutes of the March 15, 2005, Board meeting were presented to the Board members for consideration. After review, Mr. Hudson moved and Mr. Calvert seconded that the minutes of the March 15, 2005, Board meeting be approved as written, and the motion carried unanimously 6 to 0.

### 2.) General Budget Update:

Ms. Coleman provided the Board members with a general budget update. As of March 31, 2005, which represents a nine-month period, or 75% of the fiscal year, the Board has spent 50.40% of the budget. Ms. Coleman has projected a year-end budget balance of approximately \$20,000. For the same fiscal period, the Air Quality and the Environmental Quality Boards have spent approximately 54% of the combined budget. A copy of these budget reports are attached to and made a part of these minutes as Exhibit "A".

Ms. Coleman has projected a year-end combined balance of approximately \$65,000 for the Boards (\$20,000 for the AQB and \$40,000 for the EQB) which will carry forward to fiscal year 2006. Although the 2006 budget bill has been passed by the legislature, it is not yet available for review. The Board will review the fiscal year 2006 budget during the May 17<sup>th</sup> Board meeting.

### 3.) Purchasing Card Report:

Ms. Coleman provided the Board members with a quarterly Purchasing Card Report which details the purchases made by authorized staff members for the months of January 2005 through March 2005.

After review, Mr. Foster moved and Mr. Hudson seconded that the Board approve the quarterly Purchase Card Report, and the motion carried unanimously 6 to 0.

4.) Consolidation of the Air Quality Board, the Environmental Quality Board and the Surface Mine Board:

The Board Members were previously provided with a copy of the Final Order issued by the Kanawha County Circuit Court regarding the consolidation of the Surface Mine Board with the Air Quality Board and the Environmental Quality Board. The Court has directed the Boards to consolidate immediately.

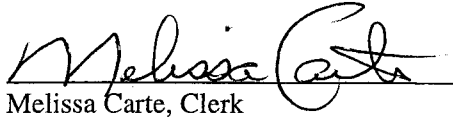
During the April 19, 2005, Board meeting, the Board members were provided with a copy of the "Report of Compliance" which was filed by the Surface Mine Board and which outlines the steps that the Surface Mine Board has taken in order to comply with the Court ordered consolidation. Ms. Carte stated that to date, very little progress has been made towards that consolidation.

The Board members were informed that the staff of the Boards and the Chairs of the Air Quality Board, the Environmental Quality Board and the Surface Mine Board will meet on May 4, 2005, to continue discussions regarding the consolidation of the Surface Mine Board with the Air Quality Board and the Environmental Quality Board.

Ms. Coleman requested that once the budget analysis for all three Boards is completed, that the Board members review and evaluate all of the staff members' salaries. The Surface Mine Board staff member's salary is substantially higher than that of the AQB and EQB staff members.

Whereupon, Mr. Foster moved and Mr. Calvert seconded that the April 19, 2005, Board meeting be adjourned, and the motion carried unanimously 6 to 0.

I hereby certify that the forgoing is a true and correct record of the proceedings of the meeting held on April 19, 2005, by the West Virginia Air Quality Board. These minutes were approved by the Air Quality Board on May 17, 2005.

  
Melissa Carte, Clerk