

MINUTES

August 21, 2003

I. General

On August 21, 2003, a quorum of the members of the Air Quality Board conducted a meeting at the Board's office located at 1615 Washington Street, E., Charleston, West Virginia. The Vice Chair, Robert Foster, called the meeting to order at 9:00 a.m.

The Board members present were:

Robert Foster, Vice Chair

Dick Calvert

Randy Curtis, designee of the Bureau for Public Health

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

*Tom Hansen – participated in the latter portion of the meeting

The Board participating by telephone were:

*Mike Koon, Chair – participated in the latter portion of the meeting

Absent Board members were:

Jean Neely

Staff members present were:

Becky Charles, Attorney

Melissa Carte, Clerk

Libby Chatfield, Office Supervisor

Kathy Coleman, Administrative Secretary

II. Administrative Matters

1.) Review and Approval of the May 6, 2003, Air Quality Board Meeting Minutes:

Whereupon the minutes of the May 6, 2003, Air Quality Board (AQB) meeting were presented to the Board members for consideration. Mr. Calvert moved and Mr. Hudson seconded that the minutes of the May 6, 2003, AQB meeting be approved, as written, and the motion carried unanimously 4 to 0.

2.) General Budget Report:

Beginning in fiscal year 2002, the Boards received a budget increase resulting from an improvement package request, in the amount of \$63,691.00. However, effective with the fiscal year 2004 budget, the Boards' combined budget was reduced by \$32,033 (AQB - \$12,291 and EQB - \$19,742). Ms. Coleman informed the Board members that an additional 9% cut will be effective for fiscal year 2005. This will further reduce the Boards' combined budget by \$25,319. Therefore, the Boards' cumulative budget reductions will total \$57,352, thus depleting most of the additional funding received in 2002. A copy of the budget report dated August 7, 2003, is attached to and made a part of these minutes as Exhibit "A".

Based on a preliminary analysis of fiscal year 2005 expenses and the 9% reduction, Ms. Coleman is projecting a budget shortfall in the amount of \$53,319. Randy Huffman, a Department of Environmental Protection (DEP) Assistant Cabinet Secretary, previously informed the Environmental Quality Board members that the 9% budget reduction is actually the best-case scenario and that it is possible that the budget cut may be as much as 15%. Mr. Huffman further stated that improvement package funding requests would not be appropriate under these circumstances.

It is anticipated that the new DEP office building will be completed and occupied in the fall of 2004. Currently, the EQB and AQB pay \$13,000 in rent annually and Mr. Huffman had stated that the agency could look at absorbing the Boards' rent and overhead expenses in order to help offset the budget cut. Also, once the Boards are in the new DEP building there may be other cost savings opportunities.

3.) Purchasing Card Report:

Ms. Coleman reviewed the Purchasing Card Report with the Board. The report details all transactions on the Boards' Purchasing Card for the months of April 2003 through June 2003. After a brief discussion, Mr. Calvert moved and Mr. Curtis seconded that the Board approve the Purchasing Card Report as presented, and the motion carried unanimously 4 to 0. A copy of the Purchasing Card report is attached to and made a part of these minutes as Exhibit "B".

4.) Alternate Members:

The Board briefly discussed whether to request that the Commissioner of the Department of Agriculture and the Director of the Bureau for Public Health assign additional alternate designees who could represent these ex officio Board members when their current designee cannot attend a Board meeting. After discussion it was determined that the appointment of additional designees was not warranted.

Whereupon, Mr. Hansen arrived at the meeting.

5.) Website Update

The staff informed the Board members that the web site is continuously updated to reflect current Board activity. Also, the Board's web site will soon have a new address: www.wvaqb.org but the site at the new address is not completely working at this time. However, the current web address will (for a short time) forward people to the new site once it is complete. The Environmental Quality Board will also have the following new address: www.wveqb.org. The Boards have registered all three of the extensions - .org, .net and .com for these two web sites.

6.) Calendar of Events for August and September:

The Board members reviewed the calendar of upcoming events for the months of August and September. In addition, the Board scheduled meetings for September 29, 2003, October 23, 2003, and November 13, 2003.

7.) Update on the Department of Environmental Protection's new building:

The Board then discussed the new DEP building. It is anticipated that the new DEP office building will be completed and occupied in the fall of 2004. Once the Boards move into the new space, the Surface Mine Board will be consolidated with the Air Quality Board and the Environmental Quality Board

The new DEP building will house a hearing room (32 feet x 33 feet) and a "break-out" room for use by the Boards for regular Board meetings and some public hearings. Some members of the Boards' staff are working with Cap Smith, who is the building coordinator for the Department of Environmental Protection, the building architect, acoustical design consultants, and an interior designer on the design and layout of the hearing room. The Board members then reviewed the current proposed layout of the hearing room (which is still subject to change).

Although the Boards have use of the hearing room, it will be considered to be a "common" room or area and as such the expense will be shared on a pro rata basis between the other departments and agencies in the building. In addition, even though the Boards will not be responsible for the costs associated with furnishing the room, the Board staff would like to participate in the selection of the furniture.

Whereupon, Mr. Koon joined the meeting by telephone.

8.) Election of the Board Chair and Vice Chair:

In accordance with section 22B-1-4(b) of the West Virginia code, at the first meeting of each fiscal year, the Air Quality Board members must elect a Chair and a Vice Chair. The August 21, 2003, Board meeting was the first meeting conducted in fiscal year 2004. Mr. Hanson moved and Mr. Koon seconded that Robert Foster serve as the Chair of the Board and Dick Calvert serve as the Vice Chair of the Board, and the motion carried unanimously 6 to 0.

III. Appeals

1.) Appeal #03-05-AQB (Hall):

Appeal #03-05-AQB (Hall) was filed with the Board on March 17, 2003, and an evidentiary hearing regarding the issues of the appeal was conducted on May 6, 2003. The parties were provided with the opportunity to file proposed Findings of Fact and Conclusions of Law, and Response Briefs to such proposed findings. After a review and discussion of the evidence presented in the case, the Board reached a final decision. The Board members then directed Ms. Charles to draft a Final Order which reflects that decision and to provide it to the individual Board members for review and approval prior to entering and issuing the Final Order. This should be completed prior to the September 29, 2003, Board meeting. Appeal #03-05-AQB (Hall) will be removed from the Board's docket after the Final Order is entered.

2.) Appeal #03-06-AQB (Asbestos):

Appeal #03-06-AQB (Asbestos) was filed with the Board on March 19, 2003, and was scheduled for hearing on August 21, 2003. However, the Division of Air Quality has since withdrawn the Notice of Violation and Cease and Desist Order that was the subject of this appeal. The Board found that although the Appellant did not formally withdraw the appeal after the Appellee withdrew the Notice of Violation and Cease and Desist Order that was the subject of this appeal, the issues raised in Appeal 03-06-AQB are now moot. Whereupon, Mr. Hudson moved and Mr. Hansen seconded that Appeal 03-06-AQB (Asbestos) be Dismissed and the motion carried unanimously 6 to 0. The Board will issue an Order of Dismissal in Appeal 03-06-AQB (Asbestos) and it will be removed from the Air Quality Board's docket.

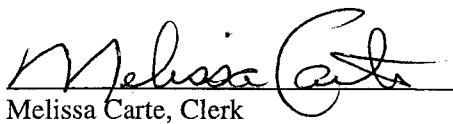
3.) Appeal #03-07-AQB (Tampoya):

Appeal #03-07-AQB (Tampoya) was filed with the Board on May 20, 2003, and the evidentiary hearing was scheduled. However, the Intervenor conceded the issue raised by the Appellants and has agreed to the suspension of the permit. The Appellants have agreed, given the Intervenor's

concession, to withdraw their appeal, provided that their right to appeal the issuance of any subsequent permit is preserved. After discussion, Mr. Koon moved and Mr. Hansen seconded that the Board enter a Final Order which acknowledges the withdrawal of Appeal 03-07-AQB (Tampoya) and provides that pursuant to W. Va. Code §22-5-14 the Appellant has a right to appeal any future permits issued by the WV Department of Environmental Protection, and the motion carried unanimously 6 to 0. Appeal 03-07-AQB (Tampoya) will be removed from the Air Quality Board's docket.

Whereupon, Mr. Hudson moved and Mr. Hansen seconded that the August 21, 2003, Air Quality 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 August 21, 2003, by the West Virginia Air Quality Board. These minutes were approved by the Air Quality Board on November 13, 2003.


Melissa Carte, Clerk