

## **MINUTES**

**August 4, 2004**

### **I. General**

On August 4, 2004, a quorum of the members of the Air Quality Board conducted a public meeting at its offices located at 1615 Washington Street, E., Charleston, Kanawha County, West Virginia. The Chair, Tom Hansen, called the meeting to order at 9:00 a.m.

The Board members present were:

Tom Hansen, Chair

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 telephonically:

Mike Koon

Absent Board members were:

Jean Neely

Staff members present were:

Becky Charles, Attorney

Melissa Carte, Clerk

Libby Chatfield, Office Supervisor  
Kathy Coleman, Administrative Assistant

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

## **II. Appeals**

### 1.) Appeal No. 04-03-AQB (Sierra):

Appeal No. 04-03-AQB (Sierra) was filed with the Board on April 2, 2004. The Board was scheduled to conduct the evidentiary hearing in this appeal during the August 4, 2004, Board meeting. However, on July 29, 2004, the parties submitted a settlement agreement for the Board's consideration and approval. The proposed Consent Order resolves the issues of the appeal without the need for an evidentiary hearing.

On August 3, 2004, Duane Nichols, representative of Forks of Cheat Forest Property Owner's Association and Jarrett Jamison, both parties of Appeal 04-02-AQB filed a Motion to Dismiss or Delay Settlement of Appeal No. 04-03-AQB. Forks of Cheat Forest Property Owner's Association also filed a request to file an Amicus Curiae brief. Appeal No. 04-02-AQB is an appeal of procedural issues regarding the permit that is the subject of Appeal No. 04-03-AQB, and is still pending before the Board.

After allowing oral arguments on the motions the Board denied the motions to Dismiss or Delay Settlement of Appeal No. 04-03-AQB and also the motion of Forks of Cheat Forest Property Owner's Association to file an Amicus Curiae brief. Since this was not a scheduled hearing, a court reporter was not present during the arguments and consequently a transcript of the proceeding will not be available. However tapes of the proceedings are available from the Board for a nominal fee.

The Board also reviewed the proposed settlement agreement submitted by the parties to Appeal 04-03-EQB, and approved the Consent Order. The Consent Order will be entered and Appeal No. 04-03-AQB will be removed from the Board docket.

2.) Appeal No. 04-05-AQB (Oxbow):

Appeal No. 04-05-AQB (Oxbow) was filed with the Board on July 2, 2004, and is scheduled for hearing on September 29, 2004. On July 9, 2004, Wheeling-Pittsburg Steel filed a Motion to Intervene in the appeal as well as an Amended Notice of Appeal. Wheeling Pittsburgh Steel asserted that decisions of the Board regarding this appeal could impair or impede its operations at its coke facility since it is dependent upon the Appellant's operation to process coke. During the August 4, 2004, Board meeting, the Board considering the facts and circumstances set forth in the motion, and granted the Wheeling Pittsburgh Steel Motion to Intervene in Appeal No. 04-05-AQB. Wheeling Pittsburgh Steel was afforded Intervenor status as a party Appellant in the appeal.

### **III. Administrative Matters**

1.) Review and Approval of the minutes of the July 12, 2004, Air Quality Board Meeting:

The minutes of the July 12, 2004, Air Quality Board were presented to the Board members for consideration. After review, Mr. Foster moved and Mr. Hudson seconded that the minutes of the July 12, 2004, Board meeting be approved as written, and the motion carried unanimously, 6 to 0.

2.) Purchasing Card Report:

Ms. Coleman presented the Board members with a Purchasing Card Report which details the purchases made by authorized staff members for the months of April through June 2004 and also provided the members with the bank statements. After a review of the statement Mr. Foster moved and Mr. Hudson seconded that the Board accept the report, and the motion carried unanimously 6 to 0.

3.) General Budget Report:

Ms. Coleman provided the Board members with a memo which provides a fiscal year 2006 summary of changes of expenditures for the Air Quality Board. She has budgeted for 9 Board meetings and 4 additional meetings between the Board Chair and staff, and requested that the Board approve or

revise this allocation. After a brief discussion, the Board accepted the number of projected meetings.

The Board also discussed several new expenses that the Board will be facing during fiscal year 2006, including an increase of \$8,600 in rent and operating costs (after the move to the new DEP building), and a \$2,400 hosting fee for IS&C to host the Boards' websites (total for both AQB and EQB websites). Based on the projected expenses for fiscal year 2006, the Air Quality Board has a projected deficit of \$33,364.00 and the Environmental Quality Board has a projected deficit of \$70,853, for a total projected deficit for fiscal year 2006, of \$104,117.00. The deficit will be caused by the increased expenses, a reduction in funding, as well as very minimal "carry forward" balance which until now was used to supplemented the Boards' budgets.

Ms. Coleman stated that for fiscal year 2005, both the Air Quality Board and the Environmental Quality Board are not adequately funded and will require a supplement of \$49,500. Without this funding the Boards will have to cease conducting Board meetings as of October 1, 2004. The Board then discussed the proposed draft letter to Randy Huffman, Assistant Secretary of the Department of Environmental Protection, which discusses the Boards' supplemental funding request. The Boards are seeking \$49,500 to cover the projected deficit for fiscal year 2005 and \$104,000.00 for fiscal year 2006. After discussion the Board approved the letter as written. Chairman Hansen noted that according to the State Code, the AQB is entitled to a share of monies deposited in the "Air Pollution Control Fund" for the purpose of paying salaries and expenses of the Air Quality Board. In the past the Board has not received any funding from this source.

The Board members noted that Board staff has not received a merit raise or salary increase in over three years. Mr. Hudson moved and Mr. Calvert seconded that the Board include in the budget request, funding for merit raises of up to 5% for the staff members, and the motion carried unanimously 6 to 0.

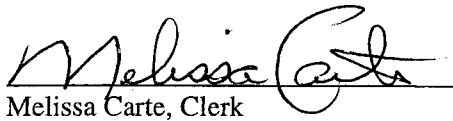
#### 4.) Schedule Future Board Meetings:

The Board members were informed that the next meeting of the Air Quality Board was previously scheduled for September 29, 2004, which is one day prior to the Boards' scheduled move to the WV Department of

Environmental Protection's new location. After discussion, the Board opted to cancel the September Board meeting and set a new meeting date of October 14, 2004. In addition, the Board will conduct meetings on October 25, 2004, November 16, 2004, and December 14, 2004.

WHEREUPON, Mr. Hudson moved and Mr. Calvert seconded that the August 4, 2004, 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 4, 2004, by the West Virginia Air Quality Board. These minutes were approved by the Air Quality Board on October 14, 2004.

  
Melissa Carte, Clerk