

MINUTES

May 18, 2004

I. General

On May 18, 2004, 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 Chair, Robert Foster, called the meeting to order at 9:00 a.m.

The Board members present were:

Robert Foster, Chair

Dick Calvert

Randy Curtis, designee of the Bureau for Public Health

Tom Hansen

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

Absent Board members were:

Mike Koon

Jean Neely

Staff members present were:

Becky Charles, Attorney

Melissa Carte, Clerk

Libby Chatfield, Office Supervisor

Kathy Coleman, Administrative Secretary

II. Appeals

1.) Appeal No. 04-01-AQB (Murphy Consolidated Industries):

Appeal No. 04-01-AQB (Murphy Consolidated Industries) was filed with the Air Quality Board on January 26, 2004. The Board conducted the evidentiary hearing on this appeal during the May 18, 2004, AQB Meeting. A transcript of the hearing is available in the Board office for review.

2.) Appeal No. 04-02-AQB (Jamison):

Appeal No. 04-02-AQB (Jamison) was filed with the Board on April 1, 2004, and is set for hearing during the June 24, 2004, Board meeting. During this meeting the Board discussed various motions that have been filed regarding this appeal. In addition, the Board opted to move the location of the evidentiary hearing to the WV Department of Environmental Protection (WVDEP) conference room at the Hansford Street location, if it is available on June 24, 2004.

3.) Appeal No. 04-03-AQB (Sierra Club):

Appeal No. 04-03-AQB (Sierra Club) was filed with the Board on April 2, 2004, and the evidentiary hearing is set for July 12th, 13th and 15th, 2004. The Board opted to move the location of the evidentiary hearing to the WVDEP conference room at the Hansford Street location, if it is available for those dates.

III. Administrative Matters

1.) Review and Approval of the April 20, 2004, Air Quality Board Meeting Minutes:

Whereupon, the Board reviewed the draft minutes of the April 20, 2004, Board meeting. After discussion, Mr. Hansen moved and Mr. Hudson seconded that the April 20, 2004, meeting minutes be approved as written, and the motion carried unanimously 5 to 0.

2.) Schedule Future Board Meetings:

The Board members scheduled Air Quality Board meetings on August 4, 2004, and September 29, 2004.

3.) Review the calendar of events for the months of May and June:

The Board members reviewed the calendar of upcoming events for the months of May and June.

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

In 1994 the state code was changed to require the consolidation of three Boards – the Air Quality Board, the Environmental Quality Board and the Surface Mine Board. The Air Quality Board and the Environmental Quality Board consolidated at that time, however, the Surface Mine Board did not participate in that consolidation. A lawsuit was filed requesting that the Surface Mine Board be mandated by the Courts to move forward with the consolidation with the AQB and EQB. No decision has been issued by the Court at this time.

Chairman Foster informed the Board members that he and Ed Snyder met with Tom Michael, Chair of the Surface Mine Board regarding the consolidation of the Surface Mine Board with the AQB and the EQB. Although the Board Chairs discussed several general issues such as staff consolidation, no course of action or consolidation schedule was established during this meeting.

Ms. Charles noted that although the AQB and EQB receive their funding from the legislature, at this time the Surface Mine Board does not have a budget separate from the WVDEP. The AQB and EQB budgets cannot absorb to expenses of the Surface Mine Board.

5.) General Budget Report:

Ms. Coleman provided the Board with a budget update. As of April 30, 2004, which represents a ten month period or 83% of the 2004 fiscal year, the Boards have spent 82.93% of the combined budgets. A copy of the

budget report is attached to and made a part of these minutes as Exhibit "A". In response to the Boards' continuing budget concerns for fiscal year 2004, Randy Huffman, Administrative Secretary of the WVDEP, has stated that the WVDEP will provide \$8,000 to be used by the Boards to meet operating and meeting expenses.

In addition, the WVDEP has agreed to supplement the Boards' budget for fiscal year 2005 by \$30,000, which will be taken from the WVDEP's "Groundwater Protection Fund". The WVDEP has also submitted a request to the State Budget Office for additional funding for the Boards. This request could be taken up by the legislature during the June interim meetings.

The WVDEP will be paying the Boards' rent and utility expenses during the first year in the new building. However, a preliminary projection of the operating costs for the Boards in the new building indicates an increase in expense in the amount of \$8,609 per year.

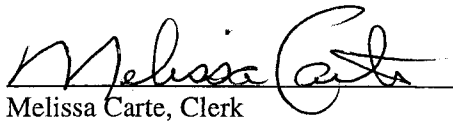
Ms. Coleman stated that WV Code §22-5-4 provides that the Air Quality Board is entitled to a share of the monies deposited in the "Air Pollution Control Fund" for the purpose of paying salaries and expenses of the Air Quality Board. However, historically, the WVDEP has not disbursed any monies from this fund to the Air Quality Board. After discussions, the Board directed staff to pursue continued discussions with the WVDEP regarding this fund and the appropriation of those monies.

6.) Payment of Per Diems for Teleconference:

Mr. Hansen moved and Mr. Calvert seconded that the Board members should receive the \$150.00 per diem for participating in a teleconference which was conducted to address various motions filed in Appeal No. 04-02-AQB and Appeal No. 04-03-AQB. The issues discussed during the meeting were not subject to the Open Governmental Proceedings Act and minutes were not taken. The conference call was conducted from 9:00 a.m. until 10:17 a.m. on Friday, May 14, 2004. The motion carried unanimously 5 to 0.

WHEREUPON, Mr. Hudson moved and Mr. Calvert seconded that the May 18, 2004, Air Quality Board meeting 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 May 18, 2004, by the West Virginia Air Quality Board. These minutes were approved by the Air Quality Board on June 24, 2004.


Melissa Carte, Clerk