

January 5, 2005

The Honorable Joe Manchin  
Secretary of State  
Administrative Law Division  
Building 1, Room 157K  
Charleston, WV 25305

**RE: Notice of Meeting for Publication in the West Virginia Register**

Dear Mr. Secretary:

In accordance with Chapter 6, Article 9A of the West Virginia Code, notice is hereby given that the WV Air Quality Board (the "Board") will meet on Tuesday, January 18, 2005, at 9:00 a.m. The meeting will be conducted in **1st floor hearing room at the Board offices located at 601 57<sup>th</sup> St., SE, Charleston, Kanawha County, West Virginia**. During the meeting the Board will discuss the following agenda\*\*:

### **I. Appeals**

#### **1.) Appeal No. 04-05-AQB (Oxbow)**

Appeal No. 04-04-AQB was filed on July 2, 2004, by Oxbow Carbon and is regards to certain terms and conditions in their Coke Screening Operation permit. The appeal was set for hearing on October 25, 2004, however, on August 20, 2004, the Appellant filed a "Motion to Stay Appeal Pending Resolution of Related Proceedings", stating that the issues raised in the Notice of Appeal are related and substantially similar to issues raised in another case (Appeal No. 04-01-EQB) which was pending before the Air Quality Board. On September 8, 2004, the Board's Vice Chair reviewed the Appellant's Motion and found that judicial economy would be best served if the Board granted a stay of the proceedings in Appeal No. 04-05 pending the issuance of the Board's Final Order in Appeal No. 04-01.

On November 12, 2004, the Board issued a Final Order in Appeal No. 04-01, upholding the conditions of the permit at issue. The Board's findings contained in that Final Order were not favorable for the Appellant and Counsel for the Appellant has now filed an appeal of the Board's Final Order issued in Appeal No. 04-01 in Kanawha County Circuit Court. On December 22, 2004, the Appellant in Appeal No. 04-05 again filed a "Motion to Stay Appeal Pending Resolution of Related Proceedings", requesting

that the Board now stay the proceedings in Appeal No. 04-05 pending the Circuit Court's review of the Board's Final Order issued in Appeal No. 04-01. The Appellee opposes this motion.

The Board will conduct a formal Hearing on the Appellant's Motion to Stay Appeal Pending Resolution of Related Proceedings during the January 18, 2005, Board meeting. This Hearing will be limited to arguments regarding whether the issues raised in Appeal No. 04-01 and Appeal No. 04-05 are related and substantially similar and whether the final resolution of Appeal No. 04-01-AQB would result in the consensual settlement of Appeal No. 04-05 without the need for an evidentiary hearing.

**2.) Appeal No. 04-06-AQB (Techsol Chemical)**

Appeal No. 04-06-AQB (Techsol Chemical) was filed with the Board on August 6, 2004, by Techsol Chemical and is in regards to a Notice of Violation, and a Cease and Desist Order issued by the WVDEP's Division of Air Quality. The Evidentiary Hearing in this appeal is scheduled to be conducted during the January 18, 2005, Board meeting.

**3.) Appeal No. 04-07-AQB (Catenary Coal)**

Appeal No. 04-07-AQB (Catenary) was filed with the Board on October 15, 2004, and is in regards to a Notice of Violation and Cease and Desist Order issued by the WVDEP's Division of Air Quality. The Evidentiary Hearing in this appeal is scheduled to be conducted during the January 18, 2005, Board meeting.

## **II. Administrative Matters**

- 1.) Review and Approval of the December 14, 2004, Air Quality Board Meeting Minutes
- 2.) General Budget Update
- 3.) Purchasing Card Report
- 4.) Personnel Matters

## **III. Other Business**

The Board may take up additional administrative matters and may also consider such business as it may deem appropriate consistent with the Open Governmental Proceedings

Act (WV Code §6-9A-1). Portions of this meeting may not be subject to the Open Governmental Proceeding Act.

**\*\*Items may not be discussed by the Board in the order in which they are listed on the agenda**

Sincerely,

Melissa Carte  
Clerk of the Boards