

May 4, 2005

The Honorable Betty Ireland  
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 Ms. 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, May 17, 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. 04-06-AQB (Techsol Chemical):**

Appeal No. 04-06-AQB was filed on August 6, 2004 and is in regards to a Notice of Violation and a Cease and Desist Order issued by the DEP regarding the transloading of coal tar light oil without vapor balancing equipment causing a violation of air quality standards. Although the evidentiary hearing appeal was initially scheduled, the Appellant filed a Motion for Continuance citing continuing substantive settlement negotiations and the fact that 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. The evidentiary hearing in Appeal No. 04-06-AQB was continued until a date yet to be determined in 2005.

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 will review the May 1, 2005 status report during the May 17<sup>th</sup> Board meeting.

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

Appeal No. 04-07-AQB (Catenary) was filed on October 15, 2004, and is in regards to a Notice of Violation and Cease and Desist Order issued by the DEP for failure to maintain adequate dust controls and the generation of fugitive emissions. The evidentiary hearing was conducted by the Board on March 15, 2005. The parties were then provided with the opportunity to file Proposed Findings of Fact and Conclusions of Law, and Response Briefs. The Board members will review the pleadings, the evidence introduced during the hearing and the briefs of the parties during the May 17, 2005, Board meeting and may reach a final decision in the appeal.

**II. Administrative Matters**

- 1.) Review and Approval of the April 19, 2005, Board Meeting Minutes
- 2.) General Budget Update
- 3.) Personnel Matters
- 4.) Consolidation of the Air Quality Board, the Environmental Quality Board and the Surface Mine Board

**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