

TENNESSEE BOARD OF WATER QUALITY, OIL, AND GAS
William R. Snodgrass Tennessee Tower
312 Rosa L Parks Ave. Nashville Room
NASHVILLE, TENNESSEE

Summary of Action on Agenda Items of the
April 18th, 2023
Meeting of the Tennessee Board of Water Quality, Oil and Gas

Members Present at TN Tower:

Pat Flood, Dodd Galbreath,
Judy Manners, John McClurkan, Frank McGinley,
Neal Whitten, Gary Bible, Terry Wimberley.

Members Present Virtually:

Brent Galloway

Absent: Kevin Davis, Charlie Johnson

Chair: Dodd Galbreath

Technical Secretary: Jennifer Dodd

A full recording of this meeting is available on the WQ/O&G Board's website. All votes were manually recorded by the Technical Secretary. All PowerPoints and documentation are available on the Board's website.

- The meeting began with a roll call of the Board Members present. Before the roll call vote the Board was made aware of a letter sent by TDEC Commissioner David Salyers that he was temporarily appointing Pat Flood as his designee for this meeting.
 - o 8 members were present in the room, 1 member joined via Microsoft Teams
 - Quorum established
- Chairman Galbreath welcomed the Board members and entertained a motion to approve the previous meetings minutes.
 - o Judy Manners motioned to approve the minutes from April 2022.
 - o Seconded by Frank McGinley
 - **Voice Vote**
 - **Passed**

Comments from the public

- The Chair opened the floor for any comments from the public in-person or virtual.
 - o John McFadden
 - Mr. McFadden represented the Tennessee Environmental Council and asked the Board to obtain updates on two separate topics:
 - Hydrologic Determinations. How the program is going given the amount of weight their determinations have and what level of quality control does TDEC have on those determinations.
 - Tennessee Stream Mitigation Project. In 2018 the US Corps of Engineers withdrew their support for the project and there are around \$30 million in mitigation credits that have yet to be used. He would like

an update on the project, how many of those credits have TDEC been able to satisfy, and what the plan is on the remaining credits.

The Chair and the Technical Secretary made note of those requests and answers to be provided at a future meeting.

- Brian Paddock made comments about his petition for rulemaking that will be an agenda item at the June meeting. *Note: Due to sound quality issues the Board had difficulty hearing much of Mr. Paddock's comment. Upon review of the recording the Technical Secretary was able to confirm that Mr. Paddock only discussed the petition which will be further discussed at the June meeting.
 - Ms. Manners asked if there were opportunities to expand or amend a petition, in this case to include internet based sites.
 - The Chair referred to Counsel, Ms. Durman, who confirmed that the Board can adopt the proposal, reject the proposal, or adopt with amendments.
 - Gary Bible motioned to hear the petition at the June 20, 2023 meeting.
 - Seconded by Ms. Manners
 - **Roll call vote 9-0**
 - **Passed**

Division of Water Resources Updates

-Division of Water Resources Director, Jennifer Dodd, gave the Board an update on the new positions filled since July 1, 2023 and the promotion of Erich Webber to be the Divisions new Drinking Water Fellow. Along with an update on American Rescue Plan, that the Division has issued 63 grants.

- Director Dodd also gave the update on PFAS.

-Mr. Bible asked for a presentation on PFAS, what it is and its impacts to Tennessee.

- Mr. Whitten asked for further update regarding PFAS, concerning the December 2022 memo from EPA to States regarding PFAS and NPDES permits.

OGC – OGC Updates – Patrick Parker

-Between October 1, 2022 and March 31st, 2023 DWR has issued 40 enforcement orders.

-3 permit appeals

-4 118(a) complaints have been filed.

OGC – Initial Order – *TDEC v. Premium Coal* – Samantha Buller-Young

-Premium Coal appealed a Director's Order alleging Respondent had caused a condition of pollution and violated terms and conditions of the permit by not maintaining and properly operating treatment systems at the site.

-TDEC filed motion to dismiss appeal because appeal was not filed by a licensed attorney. The Initial Order dismissing the appeal was issued on January 10, 2023, and neither party has appealed that decision.

-The Board chose no action.

OGC – Oral argument on appeal of initial order *Mark E. Clayton v. TDEC*

- The Chair welcomed the Honorable Judge Elizabeth Cambron to oversee this section of the agenda.

- The final order and all pertaining documents are available on the Boards website. The full recording is available on the Board's website starting at timestamp 45:48 and concluding at 2:11:39

- Each side of the case, the Department, and Mark Clayton's counsel, John Drake, presented their arguments. The Board asked Judge Cambron about procedure.

- The Board then had roll call votes in favor of the Department as follows:

- To Proceed with TDEC Final Order

- Motioned: Ms. Manners

- Seconded: Mr. Bible

- Vote: 9-0 Passed**

- To Adopt Policy Statement

- Motioned: John McClurkan

- Seconded: Mr. McGinley

- Vote: 9-0 Passed**

- To Adopt Findings of Fact

- Motioned: Mr. McClurkan

- Seconded: Mr. Whitten

- Vote: 9-0 Passed**

- To Adopt Conclusions of Law

- Motioned: Mr. McClurkan

- Seconded: Terry Wimberley

- Vote: 9-0 Passed**

- To Adopt Final Order

- Motioned: Mr. McClurkan

- Seconded: Mr. Bible

- Vote: 9-0 Passed**

No old business to report.

Motion to adjourn from Mr. Whitten

Seconded by Ms. Manners

Voice Vote

- **Adjourned.**

SUBMITTED



Jennifer Dodd
Technical Secretary

6-20-23

Date

**APPROVED BY THE TENNESSEE BOARD OF WATER QUALITY, OIL AND
GAS**



Dodd Galbreath, Chair
Tennessee Board of Water Quality, Oil and Gas

6/20/2023

Date