

Minutes
Environmental Protection Committee
2 Martin Luther King, Jr. Drive, S. E.
Suite 1252 East Tower
Atlanta, GA 30334

December 7, 2010

Attending:

Committee Members

Ray Lambert, Chairman
Earl Barrs
Dennis Billew
Warren Budd
Dwight Davis
Walter Hudson
Phyllis Johnson
Jim Walters
Tom Wheeler
Jenny Lynn Bradley, Board Chairman, ex-officio

Board Members

Bill Archer
Gene Bishop
Bill Carruth
Joe Hatfield
Mabel Jenkins
Loyce Turner
Philip Watt

Visitors

Jim Scarbrough, Gwinnett Water Resources
Ronny Just, Georgia Power Corporation
David Wamer, Georgia NWTF
Will Wingate, Georgia Conservancy
Amanda Morrow, Georgia Southern University
Kevin Chapman, Georgia Southern University
Sue Moore, Georgia Southern University
Matthew Luke, Georgia Southern University
Debbie Phillips, Georgia Industry Environmental Coalition

Staff Members

Todd Holbrook
Paul Burkhalter
Allen Barnes
Spud Woodward
Dave Crass
Becky Kelley
Dan Forster
Suzanne Burnes
Steve Friedman
Jac Capp
Linda MacGregor
Jeanne Cyriaque
Lauren Curry
Terry West
Homer Bryson
Jim Ussery
Doralyn Kirkland
Emily Hitchcock
Kyle Pearson
Jeff Weaver
Connie Buck
Mary Ann Evans
Hellen Harris

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Bryan Tolar, Georgia Agribusiness Council

Mike Giles, Georgia Poultry Federation

Juliet Cohen, Upper Chattahoochee River Keeper

Joe Cook, Coosa River Basin Initiative

Katie Kirkpatrick, Metro Atlanta Chamber of Commerce

Thomas Farmer, The Nature Conservancy

David Word, Joe Tanner & Associates

Carolyn Pait, Oglethorpe Power Corporation

Abit Massey, Georgia Poultry Federation

Margaret Campbell, Troutman Sanders

Tavia McCuen, Forestar

Jill Johnson, Georgia Conservation Voters

Hunter Broun

Ray Boyd

The December 7, 2010 meeting of the Environmental Protection Committee was called to order by Board Chairman Jenny Lynn Bradley.

Chairman Bradley called on Ray Lambert, Chairman of the Environmental Protection Committee.

Mr. Lambert stated that the first item for consideration was a Resolution that he composed related to proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, addressing Greenhouse Gas Emissions for stationary source permitting. He further stated that he had consulted with board members, stakeholders, staff, and citizens of the state. He added that the Clean Air Act is not the vehicle to enforce or regulate this issue.

Mr. Lambert stated that he has also been in consultation with staff attorneys as well as the Attorney General's office and Environmental Protection Division (EPD) Director Allen Barnes. He further stated that he would like to request the Committee's recommendation that the Board adopt the Resolution.

A motion was made by Mrs. Johnson, seconded by Mr. Hudson and carried unanimously that the Committee recommends that the Board adopt the Resolution proposed by Ray Lambert related to proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, addressing Greenhouse Gas Emissions for stationary source permitting. (Resolution attached hereto and made a part hereof)

Mr. Lambert called on Jac Capp, Chief of Air Protection Branch, for presentation of the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to Greenhouse Gas Emissions and Title V Revisions.

Mr. Capp stated that he appreciates the time and attention the Board has given to this very important issue. He further stated that this issue goes back to the 2007 United States Supreme Court Case Massachusetts vs. Environmental Protection Agency (EPA). The decision in that case formed the basis of EPA's December 2009 endangerment finding, in which EPA made an official determination that Greenhouse Gases were dangerous to public health and the environment.

Mr. Capp stated that as a result of that determination, EPA was then able to finalize a Rule regulating Greenhouse Gases from light duty motor vehicle, which was finalized April 2010. He further stated that this Rule automatically triggered the regulation of Greenhouse Gases for stationary sources. He added that EPA finalized a Rule in June 2010 to provide some framework to regulate Greenhouse Gases under the Clean Air Act.

Mr. Capp stated that the Prevention of Significant Deterioration (PSD) and Title V Programs are national, federal programs that many of the states, including Georgia,

administer. He further stated that we usually adopt the Federal Rules into our Rules. He added that he proposes to incorporate those changes regarding Greenhouse Gases into our State Rules.

Mr. Capp stated that he would like to request the Committee recommend that the Board adopt the Resolution regarding the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to PSD & Title V Revisions to incorporate the Federal Greenhouse Gas Tailoring Rule.

A motion was made by Mr. Davis, seconded by Mr. Wheeler and carried unanimously that the Committee recommends that the Board adopt the Resolution to approve the proposed amendments to rules for Air Quality Control, Chapter 391-3-1, pertaining to PSD & Title V Revisions to incorporate the Federal Greenhouse Gas Tailoring Rule. (Resolution attached hereto and made a part hereof)

Mr. Lambert called on Linda MacGregor, Chief, Watershed Protection Branch, for a presentation.

Ms. MacGregor stated that she would like to present for action proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Federal requirements for pretreatment. She further stated that the proposed amendments were designed to reduce the overall regulatory burden to industrial dischargers and control authorities; improve the effectiveness of the pretreatment program without adversely affecting protection of the environment; provide control authorities with the flexibility to reduce the burden of technical and administrative requirements.

Ms. MacGregor stated that some of the major industries and Publicly Owned Treatment Works (POTW's) in Georgia were involved in forming the decisions that led to the Federal streamlining Rule change. He further stated that EPD has provided educational presentations regarding these changes over the past several years.

Ms. MacGregor stated that she would like to request that the Committee recommend the Board adopt the Resolution regarding this issue.

A motion was made by Mr. Hudson, seconded by Mr. Wheeler and carried unanimously that the Committee recommends that the Board adopt the Resolution to approve the proposed amendments to the Rules for Water Quality Control, Chapter 391-3-6, pertaining to Federal requirements on pretreatment. (Resolution attached hereto and made a part hereof)

Ms. Macgregor gave a briefing on proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Notices of Intent. She stated that under existing Rule 391-3-6-.15, all discharges seeking coverage under a general permit must

submit a Notice of Intent (NOI) to be covered under the general permit. She further stated that other states in Region 4 do not have this restriction in their rules.

Ms. MacGregor stated that this modification is designed to provide the EPD Director with the discretion to allow coverage under a general permit without the submittal of an NOI where the Director finds that requiring such a notice would be inappropriate and where the Federal regulations at 40 CFR 12.28(b) do not require such notice. She further stated that the federal regulations require NOI submittals for general permit coverage for discharges from publicly owned treatment works, combined sewer overflows, and certain industrial facilities. She added that the Director is given the discretion to find that NOI submittal is inappropriate for other discharges after considering the characteristics and potential impacts of the discharge.

Ms. MacGregor stated that in addition, various typographical errors in the Rule are being corrected. She further stated that the Rule will be sent out for public comment and will be presented for action at the February meeting.

Ms. MacGregor gave a briefing on the proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Surface Water Withdrawals. She stated that EPD has existing statutory authorities to manage surface water use, to ensure that applicable provisions are met for any discharge, and to meet certain requirements when granting permits for withdrawal. She further stated that State Law also states that the Metro Water District “shall neither study nor include in any plan any interbasin transfer of water from outside the district area.”

Ms. MacGregor stated that Rules for Water Quality Control, Chapter 391-3-6-.07(14) also require certain actions associated with permits associated with interbasin transfers. She further stated that the State Water Plan presents policies associated with interbasin transfers and actions for consideration by the Board of Natural Resources.

Ms. MacGregor stated that the proposed rulemaking is based directly on actions documented in the State Water Plan, which included a significant level of public input and involvement from 2004 through 2008. She further stated that the proposed amendments will:

- Update the definition of an interbasin transfer
- Provide for donor basin considerations
- Provide for receiving basin considerations
- Provide for consideration affecting both basins
- Removes the requirements for a press release and public advisory and adds the requirement for public notice and comment periods typically used for EPD permitting actions.

Ms. MacGregor stated that the proposed amendments would be sent out for public comment and would be presented for action at the January meeting.

Mr. Lambert called on Joe Cook, Coosa River Basin Initiative, on behalf of the Georgia Water Coalition, who expressed his support of the proposed amendments, with a change in one sentence. He stated that he feels the word “should” be changed to “shall” in Chapter 391-3-6-.07(3)(b).

Mr. Lambert called on Juliet Cohen, Upper Chattahoochee RiverKeeper, on behalf of the Georgia Water Coalition, who gave the same thoughts expressed by Mr. Cook.

Mr. Lambert called on Allen Barnes, Director of EPD, for an update. Director Barnes commended the Committee and Board on their handling of the Greenhouse Gas issue.

There being no further business, the meeting was adjourned.