

ENVIRONMENTAL HEARING BOARD

RULES COMMITTEE

MEETING OF JULY 14, 2011

Attendance:

Committee Chairman Howard Wein, Committee Vice-Chair Maxine Woelfling, Jim Bohan, Brian Clark, Rep. Kate Harper, Phil Hinerman, EHB Chairman and Chief Judge Tom Renwand, Judge Rick Mather, Judge Michelle Coleman, and EHB Counsel Kris Gazsi and Maryanne Wesdock

Next Meeting: September 15, 2011

Budget:

Judge Renwand reported on the budget. He thanked Rep. Harper for her efforts to secure adequate funding for the Board. He also thanked the Rules Committee, the PBA Environmental and Energy Law Section and the Allegheny County Bar Association Environmental Law Section for their support in securing adequate funding for the Board.

The Board's budget for fiscal year 2011-12 is \$1,727,000. This will allow the Board to hire a full-time Board Secretary. Ms. Wesdock has served as the Acting Board Secretary in addition to her assistant counsel duties since November 2009. The budget will also allow the Board to hire an administrative/clerical person. The Board's greatest staffing need at present is in the area of clerical/secretarial support, since the Board currently has only one person to handle typing and clerical duties for all of the judges and attorneys.

In April 2011 the Board was able to bring Administrative Assistant Kathi Graeff back as an annuitant two days per week to assist with purchasing and contracting duties.

Despite the shortage of funding and staff, the Board does not have a backlog. Judge Renwand again thanked the members of the Rules Committee for their support and their efforts to restore the Board to adequate funding. He noted that Rep. Harper had included the Board in proposed legislation that would have developed an impact fee associated with Marcellus shale drilling. Even though the bill did not pass, it had the important effect of placing the Environmental Hearing Board's funding concerns at the forefront of the debate and focused light on the importance of the role played by the Board.

Mr. Clark seconded Judge Renwand's comments about the importance of bringing the Board to the attention of the legislature since most legislators are not familiar with the Board and its function. He underscored the importance of meeting with House and Senate leadership, members of the Appropriations Committees and their staff. Judge Renwand agreed that the Board needs to be more proactive in meeting with members of the legislature.

Mr. Clark asked how the Board's funding might be used with regard to personnel. Judge Mather stated that the Board's greatest need is clerical support. During the summer of 2010 the Board lost three full time clerical staff and two annuitants (one of whom has been reinstated). More clerical support is needed. Mr. Wein stated that the message that resonated most strongly with legislators when discussing the Board's funding was the fact that each judge does not have a secretary, and in fact, there is only one person who performs secretarial duties for all four judges and all three assistant counsel. The Chief Judge has no secretary in Pittsburgh.

Rep. Harper asked if the Environmental Hearing Board falls under DEP's budget. The answer is no, the Board has its own budget. There are currently five to six positions that remain unfilled at the Board.

Orders by Mail:

Mr. Wein questioned whether it was necessary for the Board to mail hard copies of orders when the orders are issued electronically and placed on the electronic docket. Judge Renwand stated he was in favor of discontinuing the practice of sending orders by mail when they are electronically issued.

Mr. Bohan stated that he addressed this issue in his draft rule on mandatory electronic filing.

Minutes:

One correction was made to the minutes of the March 9, 2011 meeting. With that correction, Mr. Bohan moved to approve the minutes. Ms. Woelfling seconded. All were in favor.

Mandatory Electronic Filing:

At the previous meeting, Judge Renwand had explained his interest in moving the Board to a system where all filing is done electronically with certain limited exceptions. Mr. Bohan had agreed to draft such a rule. Mr. Wein thanked Mr.

Bohan for his excellent work in preparing the draft rule and for his comments and explanations with regard to the draft rule.

Mr. Bohan presented the rule and an explanation of it. The members of the Committee discussed the draft rule and presented questions and comments. It was agreed that Mr. Bohan, Judge Mather, Judge Renwand and Ms. Wesdock should discuss a number of the questions and comments with LT Court Tech, the developer and administrator of the Board's electronic filing system and website.

Post note: Mr. Bohan, Judge Mather, Judge Renwand and Ms. Wesdock participated in a conference call with representatives of LT Court Tech on November 3, 2011. Based on the meeting with LT Court Tech and the discussion held at the Rules Committee meeting, Mr. Bohan prepared a second draft of the rule, showing both how the proposed revisions would change the Board's existing rules, and also how the current version of the proposed rules differs from the one proposed in July 2011. A copy of this rule was circulated to the Committee by Mr. Bohan on December 27, 2011.

The Committee will discuss the December 2011 draft of the mandatory electronic filing rule at the upcoming January 12, 2012 meeting to be held in Courtroom 2 of the Board's Harrisburg Office beginning at 10:15 a.m.