

**MINUTES**  
**WATER QUALITY APPEALS BOARD MEETING**  
**100 N. 15<sup>th</sup> Avenue, Suite 103**  
**Monday March 6, 2017**

**IN ATTENDANCE:** Scott S. Wakefield, Chairman; Gail M. Clement, Vice Chair; Fred E. Brinker, P.E., Member

**STAFF IN ATTENDANCE:** Lisa Kautz & Connie Castillo, Clerk of the Board; Michael Hrnicek Assistant Attorney General from the Solicitor General's Office of the Attorney General's Office, Counsel for the Board

**MINUTES:**

1. The regular meeting of the Water Quality Appeals Board (WQAB) was called to order by Scott Wakefield at 10:00 A.M., Monday, March 6, 2017.

Chairman Wakefield notes that Ms. Clement has asked to hold off on Items #2 and #3 – Approval of the minutes from December 14, 2016 and February 13, 2017 as she would like more time to review. This item may be discussed later in the meeting.

Chairman Wakefield notes that they will now begin discussing Item #4 on the agenda and asks for appearances from the parties.

2. **Attendance for Meeting** –Roger Featherstone, Mining Reform Coalition; Roger Featherstone on behalf of Concerned Citizens of and Retired Miners, John Kreig, Save Tonto National Forest; Brad Pollock, Curtis Cox, ADEQ; Christopher Thomas, Matthew Rojas, Perkins Coie on behalf of Resolution Copper Mining.

Chairman Wakefield notes that the San Carlos Apache Tribe counsel is not present and confirms with the Clerk that notification was in fact sent. For the record the clerk does indicate that the notification was sent.

3. **17-001 San Carlos Apache Tribe, Arizona Mining Reform Coalition, Concerned Citizens and Retired Miners Coalition, and Save Tonto National Forest Notice of Appeal of Agency Decision RE: Resolution Copper Mining AZPDES Permit No. AZ0020389.** The Board will discuss and decide on hearing this new appeal or submit to the Office of Administrative Hearing. The Board may discuss and take action on setting deadlines, hearing dates and other procedural matters.

Chairman Wakefield notes the first item for discussion is the Coalitions' Request to Modify the Order Granting Intervention. There were responses from ADEQ and Resolution Copper; no replies have been filed and the date has passed. The matter is now ready for the Board to decide on the Appellant's "Motion to Modify the Intervention".

Mr. Fred Brinker moves to reject the "Motion to Modify the Intervention"

Chairman Wakefield confirms that Mr. Brinker moves to deny.

Mr. Fred Brinker agrees that is correct.

Chairman Wakefield asks for any discussion on Mr. Brinker's Motion or if there is a second to his motion.

Ms. Clement seconds Mr. Brinker's motion to deny.

Chairman Wakefield asks for discussion or vote. Vote is held and the Request to Modify the Order Granting Intervention is denied.

Chairman Wakefield addresses ADEQ's Motion to Exclude Public Participation Issues. There were responses with replies. Chairman Wakefield asks for discussion before he calls for motions.

Mr. Brinker states he has reviewed the motion again and states that the purpose of the Board is to take appeals and he did not see anything that limits it. If there is a permit, the Board is permitted to take an appeal. The second finding in 49.24C is that with the permitting process a public comment hearing must be held. Mr. Brinker states that he does not feel public participation issues should be excluded.

Ms. Clement states that she does not see any specific requirement that allows the Board to be limited on what its purview is relative to the public participation requirements. Ms. Clement states that she agrees that the Board should not, in her opinion, limit their jurisdiction regarding that issue.

Mr. Brinker moves to deny the Motion to Exclude Public Participation issues. Ms. Clement seconds and the motion is denied.

Chairman Wakefield announces the third item on the agenda is the Amended Notice of Appeal from San Carlos Apache Tribe. Chairman Wakefield notes that no response has been received from ADEQ and asks if ADEQ has any objection or if they intend to file anything in response to the Amended Notice of Appeal.

Brad Pollock from ADEQ states that ADEQ had not received a copy of the Amended Notice of Appeal, nor have they had the opportunity to review it.

Chairman Wakefield states that he believes the intention of the filing was to perhaps clarify and narrow some issues. Chairman Wakefield states that he is hesitant to decide how the matter will be handled at this point, and asks if there are any objections from the parties to the Board not proceeding to determine where a hearing may take place or to not proceed and bring this back next month.

Mr. Featherstone states that he has no objections, but would like to participate telephonically in the future.

Mr. Brinker asks if Mr. Featherstone has received the Amended Notice of Appeal from San Carlos Apache Tribe.

Mr. Featherstone confirms that they have not.

Chairman Wakefield confirms that the service page in the filing does indicate that it was mailed and emailed to the Assistant Attorney General to Mr. Pollock and Mr. Cox. He asks if Resolution Copper received a copy of the Amended Notice of Appeal.

Mr. Thomas states that he does not recall and does not want to deny that he did.

Chairman Wakefield asks all parties to be in touch with the attorney for the Tribe and make sure he is effectively communicating. Chairman Wakefield states that there are no objections from the appellants regarding setting a hearing and asks ADEQ if there are any objections to the Board not setting a hearing at this meeting and bringing it back next month.

Mr. Pollock states their only concern is timeframes as they don't want it to be dragged out any longer than necessary. He also states they would like to look at that to see if we have any concerns with the amended notice. So, if we keep the timeframe short so we can have this hearing progress and get a hearing scheduled before too long extending it out a little further is not an issue at this point.

Chairman Wakefield asks if Resolution Copper has any objections.

Mr. Thomas states that they agree.

Ms. Clement asks Resolution Copper if the appeal is altering the ability of the mine to operate as it is currently.

Mr. Thomas states that the mine is not yet operating.

Mr. Brinker states that his understanding of the Storm Water Program is that when you apply for a new permit, your old permit continues in force until the new permit is issued.

Mr. Thomas states that Mr. Brinker's understanding is correct and they are currently operating under the old permit as that is what they are currently governed by.

Chairman Wakefield states that if there are no objections to the Board not scheduling a hearing that would be his preference. This would provide some opportunity to resolve the issues with the Amended Notice of Appeal.

Mr. Pollock asks to clarify that all communication filed with the Board is emailed between the parties.

Mr. Brinker states that is what he believed was already happening.

Mr. Pollock agrees and states that he just wanted to reiterate that fact in order to make sure all parties understood.

Chairman Wakefield agrees that issue was discussed at a prior meeting. He reminds the parties to file hard copies with the Board and email copies to the parties. He further states that the parties can communicate with each other in between meetings. Chairman Wakefield encourages parties to communicate and be cooperative.

Chairman Wakefield states that this brings them to Item #4 on the agenda and states there will be a break until 10:30 when they resume.

**HEARING RE; 16-002-WQAB Town of Florence, SWVP-GTIS MR, LLC, and Pulte Home Corp. vs. ADEQ, Florence Copper Inc. RE: Aquifer Protection Permit No. P-106360. See Transcript.**

Chairman Wakefield asks if the board members would like to consider Items #2 and #3 on the agenda regarding the approval of previous meetings minutes.

Ms. Clement states that she has reviewed the minutes from February 13, 2017.

Mr. Brinker has also reviewed and moves to adopt the minutes. Ms. Clement seconds and the motion passes.

Chairman Wakefield asks if there is further discussion needed by the Board, and Ms. Clement confirms that there is not.

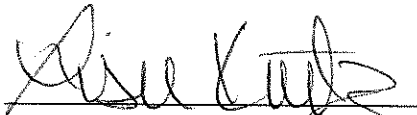
Chairman Wakefield asks for a motion to adjourn.

Mr. Fred Brinker moves to adjourn, and Chairman Wakefield seconds the motion.

Future Agenda Items. There were no future items for discussion.

4. Mr. Wakefield adjourned the meeting at 3:43 P.M.

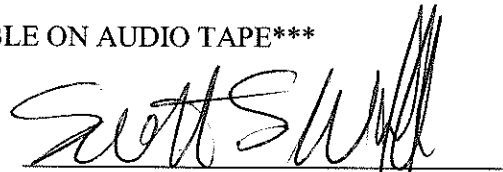
\*\*\* ALL WQAB MEETINGS ARE AVAILABLE ON AUDIO TAPE \*\*\*



Submitted by Lisa Kautz, Clerk  
Water Quality Appeals Board

4-11-17

Date



Approval Signature by Chairperson  
Water Quality Appeal Board

4/11/2017

Date