

**FORSYTH COUNTY ENVIRONMENTAL ASSISTANCE and PROTECTION
ADVISORY BOARD MEETING**

October 16, 2012

The Forsyth County Environmental Assistance and Protection Advisory Board met on October 16, 2012 at 10:00 a.m. in the Equalization and Review Board Room, Forsyth County Government Center, 201 North Chestnut Street, Winston-Salem, North Carolina.

MEMBERS PRESENT: Peter DeVries, Chairman
William Mosko
Richard Sieg
Mary Beth Williams
Charles Wilson

MEMBERS ABSENT: Nathan Atkinson
Tommy Thompson

FCOEAP PRESENT: Minor Barnette Jeff Ebbitt
Peter Lloyd Donna Murphy
Adam Wipfield

VISITORS: Vernon Carlton – Winston Weaver Co.
James Ownley – Winston Weaver Co.

I. Call to Order.

Peter DeVries called the meeting to order.

II. Approval of Minutes of July 17, 2012.

Peter DeVries moved to accept the July minutes. Richard Sieg seconded the motion, and the Board approved the minutes.

III. Appeal of Civil Penalty: Winston Weaver Company.

Peter DeVries opened the appeal hearing explaining that it is for a Civil Penalty against Winston Weaver Company. It is a matter of record and can be used in a Court of Appeals. It is regulatory and is a legal standing of evidence as presented by the Office of Environmental Assistance and Protection (EAP) Staff. The hearing intent is to render an opinion. A review of the procedures as set forth by the Forsyth County Commissioners was explained. Peter DeVries swore in witnesses who were testifying.

Peter Lloyd (EAP) presented an explanation of the Notice of Violation (NOV) against the Winston Weaver Company in assessing a \$2,500 civil penalty for the violation of the particulate matter emission standard under Permit Condition 3.3(a) of Air Quality Permit 00004R6 and Forsyth County Air Quality Technical Code (FCAQTC) Rule 3D .0507 – Particulates from chemical fertilizer manufacturing plants. The information presented by Peter Lloyd was entered into the record as exhibits A through N.

Winston Weaver conducted a compliance test on March 13, 2012. The test report was received by the EAP office on April 30, 2012. The results concluded that Winston Weaver was in violation of their allowed emission rate on their ammoniator/granulator and dryer. Winston Weaver was issued a Notice of Violation on May 11, 2012 and was required to conduct a second test.

On May 22, 2012, EAP received a letter from Winston Weaver responding to the NOV and provided mitigating factors. Winston Weaver retested on June 19, 2012 and the report was received by EAP on July 23, 2012. The results showed the test demonstrated compliance with the emission standards. After the second test was reviewed, a civil penalty was issued to Winston Weaver for violation of permit conditions 3.3(a) and 2.8 for the first stack test. Peter Lloyd stated the Office's position regarding enforcement and the matrix used to assess penalties of \$2,500.

Winston Weaver Company sent a letter to EAP to appeal the Civil Penalty of Air Permit #00004R6 stating that the first test was not representative of their air emissions, and it should not be considered a violation of their air permit.

When asked by the Board, Adam Wipfield of EAP testified that he did not recall observing excess opacity during the test in March.

Vernon Carlton of Winston Weaver Company testified that he is a 48 yr businessman in the fertilizing business. He was appealing in principle in regards to the civil penalty based on this one test. He felt that in all the years he has been doing business in Winston-Salem his company has always been in compliance. Mr. Carlton also mentioned that he already paid \$75,000 for a new dust collector and \$9,000 to perform the second stack test to prove his company was in compliance. He realized a supervisor made a mistake the day before the test. The supervisor cleaned the straight stack of the ammoniator with a hose to get rid of the build-up inside the stack, which in turn sent the emissions through the stack during the test. Mr. Carlton stated that it was a fluke the test had failed.

After discussions concluded, Peter DeVries summarized the case and asked each Board member their opinion. Richard Sieg stated he thought a penalty should be assessed and recommended \$1,500 but with the recommendation that an employee of Winston Weaver should take a course on opacity training. Peter DeVries requested a copy of the enforcement matrix used to derive the penalty. Richard Sieg requested a copy of Winston Weaver's permit. William Mosko said that the fine was too high and that the company is in good standing and he was in favor of no penalty. Beth Williams supported the idea of requiring opacity training. Peter DeVries felt there should be no fine and the violation be considered a "Tier 2" violation. Charles Wilson suggested there should be some

monitoring of the process. Richard Sieg made the motion to reduce the fine to \$500 with opacity training for an employee of the Winston Weaver Company. The motion was seconded by Charles Wilson. The motion was approved with Peter Devries and William Mosko opposed. The motion passed 3:2 with a \$500 fine and recommendation for an employee to take opacity training. Peter Lloyd clarified the motion approved by the board was to reduce the penalty to \$500 and require opacity training for the permit term (5 yrs).

IV. Other Business

There was no other business to discuss.

V. Next Tentative Meeting Date:

January 15, 2013.

Dated: 11/2/12

WMBarnette
W. Minor Barnette, Director

Approved: Peter H. DeVries
Peter H. DeVries, Chairman