

POLLUTION CONTROL HEARINGS BOARD SUMMARY MINUTES

Date: 2024-02-14

Place: Hybrid Online and In-person at 1111 Israel Road SW, Olympia, WA 98501

Pollution Control Hearings Board Members:

Michelle Gonzalez, Acting Board Chair

Chris Swanson, Board Member

Carolina Sun-Widrow, Board Chair

Dominga Soliz, Director

Jamie Merly, Legal and Admin. Director

Gabriel Verdugo, Administrative Appeals Judge

Andrew O'Connell, Administrative Appeals Judge

Heather Coughlan, Administrative Appeals Judge

Destinee Chisa, Legal Office Assistant

This summary is to be used with the materials provided in advance of the meeting. ELUHO retains a recording as the formal record of the meeting.

Call to Order

Acting Chair Gonzalez called the Pollution Control Hearings Board (Board) to order at 1:33 PM.

Item 1: Approve Meeting Minutes: November 28th, 2023.

Administrative Appeals Judge Coughlan had one verb tense change.

Nomination: Approve Board Summary Meeting Minutes with corrections

Moved by: Member Swanson

Seconded by: Chair Sun-Widrow

Decision: **Approved Uncontested**

Approve Meeting Minutes: January 31st, 2024.

Nomination: Approve Board Summary Meeting Minutes with corrections

Moved by: Member Swanson
Seconded by: Chair Sun-Widrow
Decision: **Approved Uncontested**

Item 2: 2024 Directors Report

Director Soliz provided a memo and proceeded to go over the memo with the Board.

Farewell to **Administrative Appeals Judge Coughlan** as this will be her last Board meeting.

The statewide employee engagement survey: Survey results for our agency were provided and reviewed. Regarding our Pro-Equity Anti-Racism (PEAR) responses, **Director Soliz** confirms that we will be focusing more on this in the next year.

Budget update: Due to quite a few vacancies over the last year and a bump up to travel allocations, we have more room in the budget. We have been overspending on Case Management System (CMS) maintenance deliberately due to many updates and improvements that are needed. We have quite a bit more Climate Investment Account funding than needed due to overestimating the amount of cases we would receive. This money can only be spent on Climate Commitment Act cases.

Legislative session update: House Bill 2039 has left the House and is now with the Senate. **Director Soliz** thanks Board members and Administrative Appeals Judges for helping analyze this bill. **Director Soliz** will be sending an updated tracker on bills that are in progress. We do not have an update on the budget bill regarding salary increases but **Director Soliz** hopes to know more by the end of February. This bill is scheduled for a hearing Friday, February 16th at 8pm.

Administrative Appeals Judge Position: 2nd level interviews are being considered for the position to fill Administrative Appeals Judge Coughlan's position. We have the budget to hire a 4th judge prior to July 1st if the Board would like to. We don't know what the salary would be yet, but we can start the recruitment process. The Board, Administrative Appeals Judges, and Director Soliz discuss workloads, the benefits of having more flexibility, whether to stagger onboarding to train one new judge at a time.

Chair Sun-Widrow announces that her term ends in June and she does not plan to renew her appointment, which is also something to consider. **Director Soliz** suggests

that there is more ongoing work outside of casework that could factor in. **Director Soliz** invites people to share their thoughts with her any time.

Office Relocation: **Director Soliz** reminds the Board that our lease expires August 31st, 2025 and explains that our application to relocate has now been approved by the Office of Financial Management (OFM). We are working with the Department of Enterprise Services (DES) Real Estate services to look for a new space and they are looking closely at the Natural Resources Building. **Director Soliz** is making sure they know we will need walls, a hearing room, and other important elements specific to our line of work. **Legal and Administrative Services Director Merly** is working with her team to prepare for this move.

CMS Update: We are working on getting calendaring integrated into the CMS. Depending on HB 2039, we may need to prioritize updating the case consolidation features in the CMS. **Director Soliz** gives kudos to **Legal Office Assistant Destinee Chisa** for being a super user with CMS, she is assisting all team members and external CMS Users.

Network of Adjudicatory Agencies (NAA) Continuing Legal Education (CLE): **Director Soliz** is co-leading the committee that is planning the annual CLE conference in the fall. **Director Soliz** is collecting potential agenda and speaker ideas and would appreciate the Board's input.

Item 3: Scheduling Cases/Conferences

Chair Sun-Widrow provided a memo to help with scheduling hearings and conferences. She notes that everything in the document is already in the rules but that she wanted to highlight the rules and make it easier for the legal team to schedule.

Director Soliz thanks **Chair Sun-Widrow** as this helps the team with planning and making the calendar more efficient. **Director Soliz** mentions that we should be scheduling for Mondays and Fridays to utilize all five days of the week.

Legal and Administrative Services Director Merly asks for clarification about the process if the primary hearing date is scheduled but then the secondary hearing date becomes available. **Chair Sun-Widrow** says the case parties would discuss at the prehearing conference. **Legal and Administrative Services Director Merly** states that the Presiding Officer should reach out to staff if a secondary hearing is requested.

Item 4: Upcoming Rule Changes- Assignments and Discussions

Acting Chair Gonzalez presents the upcoming rule changes that have been discussed so far:

1. Sealing of Cases (Confidentiality)
2. Use of the term "jurisdiction"
3. How to submit exhibits

Administrative Appeals Judge Coughlan adds an additional potential rule change: our rules say when you request to dismiss a case, you need to attach the settlement agreement. She recommends this be removed from the rule. WAC 371-08-440 and WAC 461-08-465.

Director Soliz added another possible rule change regarding HB 2039. If this bill passes, we will want to look at whether rulemaking is needed.

Assignments for the following rule changes:

1. Sealing of Cases (Confidentiality) –**Administrative Appeals Judge O’Connell**
2. Use of the term “Jurisdiction” –**Member Swanson** – This may be a longer-term project depending on the scope. **Member Swanson** will provide a timeline on this discussion and may need additional input.
3. How to submit exhibits –**Administrative Appeals Judge Verdugo**
4. Dismissing a Case - Settlements –**Acting Chair Gonzalez**
5. HB 2039 – Should this bill pass it is assigned to **Administrative Appeals Judge O’Connell**

Director Soliz outlined the timeline for these rule changes, we have several months and would like to submit all the rule changes at one time. Overall, there is no deadline for this project. The Board discussed whether formal Board action is needed to move forward with the rulemaking process.

Motion: Move forward with the CR-101 rulemaking process regarding the sealing of cases, submitting exhibits, settlement agreements, and, should it pass, any rule changes related to HB 2039.

Moved by: Chair Sun-Widrow

Seconded by: Member Swanson

Decision: **Approved Uncontested**

Item 5: Diversity, Equity, and Inclusion (DEI)

Legal and Administrative Services Director Merly will be facilitating the next DEI Roundtable discussion on February 21st. **Acting Chair Gonzalez** adds that we had our first roundtable discussion and felt it went well. She thanks **Administrative Appeals Judge O'Connell** for facilitating. **Director Soliz** notes as it is Black History Month and mentions she would like to send regular information about monthly DEI recognitions.

Acting Chair Gonzalez asks what our interaction is with the state's Equity Office. **Director Soliz** confirms the Equity Office has reached out to us to set up a meeting on PEAR because we have requested assistance. She explains that we have had challenges in areas such as creating and sustaining a PEAR team. **Director Soliz** is hoping to meet with the Equity Office in February or March.

Acting Chair Gonzalez is curious if the Network of Adjudicatory Agencies (NAA) has attempted to do anything with their respected agency that we might learn from. **Board Member Swanson** shares that there is a bit of creative thinking needed to put the PEAR teams together as we and other participants in the NAA are smaller agencies.

Item 6: Public Comment

No members of the public attending.

Item 7: Good of the Order

Legal and Administrative Services Director Merly shares that now that we are fully staffed, she will be able to start assigning legal assistants to cases hopefully in the next month or so.

Item 8: Adjourn at 2:58PM