

**MMA Testimony on SB 89 (Basham)
Site Review Board Authority
2/21/07**

Madam Chairman, thank you for the opportunity to share our views on SB 89, which would shift the power of the MDEQ Director to an appointed Site Review Board. The authority of environmental decision making belongs with the director of the MDEQ. The program is run by the state and funded, increasingly through fee revenue. We like to think we are paying professional staff to make science based decisions that meet state and federal law and ensure that decisions by the agency are defensible in court.

The site review board is not paid by the state to make decisions. Instead, they are a non-paid and serve only as appointees of the Governor. The director of the MDEQ is hired by the governor to implement environmental laws and we believe allowing the board to make decisions on behalf of the state robs the director of the proper authority as director of the MDEQ to implement environmental law. The Director is accountable to the administration, and is accountable to the legislature for running an efficient and effective department. The decisions of the agency are ultimately the responsibility of the state as a whole. Adverse decision in court can cost tax payers significant sums of general fund dollars. I don't need to remind the members of this committee about expensive adverse judgments against the state, such as the Durant case, and the Miller Brothers Case, in the middle 90's. While these cases were not the result of decisions by appointed boards, we should not allow unaccountable appointed boards to make decisions with such broad liabilities for the state's tax-payers and the state general fund.

It is interesting to note that eight of the ten members of the board are appointed by the Governor. This raises the question – Why wouldn't a governor have confidence in the director of the MDEQ he or she hired to make these decisions? We believe if tax payers are going to pay for the director and provide \$2.8 million in fees for the hazardous waste program (as the Governor has proposed), then the director and the department ought to be allowed to do their jobs. If a non-paid board is going to make the decision, then the cost of the program should go down significantly.

Some have argued the issue is about public input. The law requires public hearings and the site review board remains in the law, and the department has not been stingy with holding public hearings and taking public input. The MDEQ must hold public hearings, assess the technical merits of that input and make a decision in a timely manner that meets the law designed to protect public health and the environment.

In summary, we believe that the department is staffed with the technical expertise to advise the director, and the director is hired by the governor to make decisions based on the law to protect human health and the environment. We should let them do their job and not rob the of its responsibility to tax payers, by shifting power to an unaccountable appointed board.

Thank you for the opportunity to share our views.