

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD**

**PINN MC WIND DOWN CO., LLC,**

**Appellant,**

**v.**

**Appeal No. 23-04-EQB**

**DIRECTOR, OFFICE OF MINING AND  
RECLAMATION, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,**

**Appellee.**

**ORDER GRANTING MOTION TO HOLD APPEAL IN ABEYANCE**

On March 30, 2023, the Appellant, by and through its counsel, filed a notice of appeal in this matter, representing that it is aggrieved by WVDEP's February 28, 2023 MR-HP15E Single Event Violation ("SEV") #16.

On April 11, 2023, the Appellant, by and through its counsel, filed a Motion To Hold Appeal In Abeyance stating that the Appellant and Appellee are currently discussing the possibility of entering into a consent decree/order, which would likely include terms and conditions that would resolve some or all of the issues raised in this appeal.

On Thursday, April 27, 2024, the parties, by and through their legal counsel, appeared before the Chairman of the Environmental Quality Board ("EQB") to present oral arguments concerning Appellant's Motion To Hold Appeal In Abeyance.

Pursuant to W. Va. Code R. § 46-4-5.2, "[t]he board may, in its administrative discretion, and in the interests of fairness and justice, rule on motions which tend to regulate the course of a hearing, simplify the issues, and dispose of procedural requests or similar matters." Upon consideration of the Motion To Hold Appeal In Abeyance and oral arguments and wherein


Appellee requested during oral argument that the Motion be considered a Joint Motion To Hold Appeal In Abeyance, the motion is **GRANTED**.

The Board finds that good cause exists and **ORDERS** that this appeal, 23-04-EQB, be held in abeyance for ninety (90) days. The Board also **ORDERS** that on or before **July 24, 2023** the parties file with the Board a Joint Report to provide an update on the need for continuing the abeyance. The parties should also be available to participate, if needed, in the **July 27, 2023 prehearing status conference** to discuss the Joint Report and determine the need for the evidentiary hearing scheduled for August 10-11, 2023.

It is further **ORDERED** that the deadline for Appellee's submission of the Certified Record in this matter be continued generally.

This Order shall serve as notice to all parties.

**ORDERED** and **ENTERED** this 5<sup>th</sup> day of May, 2023

  
**Dr. Edward M. Snyder**  
**Chairman**

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**CERTIFICATE OF SERVICE**

I, Kenna M. DeRaimo, Clerk for the Environmental Quality Board, hereby certify that I have this day, the 5<sup>th</sup> day of May, 2023, served a true copy of the foregoing **ORDER GRANTING MOTION TO HOLD**

**APPEAL IN ABEYANCE** to the following:

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*Counsel for Appellant*

*Via Certified U.S. First Class Mail*  
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*Counsel for Appellee*  
*West Virginia Department of Environmental Protection*

*Via Interdepartmental Mail*

  
Kenna M. DeRaimo, Clerk