

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 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, 2023, 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.

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 was granted with a request that the Parties file a Joint

Report with the Board on or before July 24, 2023 and participate in a status conference to discuss the Joint Report on July 27, 2023.


On Thursday, July 27, 2023, the parties, by and through their legal counsel, participated in a Prehearing Status Conference before the Chairman of the Environmental Quality Board (“EQB”) and the Board’s counsel and discussed the Joint Report filed with the Board on July 25, 2023.

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 representations of Appellant and Appellee at the July 27, 2023 Prehearing Status Conference, the Board finds that good cause exists and **ORDERS** that this appeal, 23-04-EQB, be held in abeyance for an additional ninety (90) days. The parties should be available to participate in a prehearing status conference on **October 26, 2023** and provide information to the Chairman of the Environmental Quality Board in order to determine the need for an evidentiary hearing.

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

ORDERED and **ENTERED** this 24th day of August, 2023

for 
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 24th day of August, 2023, served a true copy of the foregoing **ORDER TO HOLD APPEAL IN**

ABEYANCE to the following:

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Via Certified U.S. First Class Mail

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Kenna M. DeRaimo, Clerk