

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

**LACKAWANNA TRANSPORT COMPANY,
d/b/a WETZEL COUNTY LANDFILL and
FLUID MANAGEMENT SOLUTIONS, INC.**

Appellants,

v.

Appeal No.: 24-04-EQB

**DIRECTOR, DIVISION OF WATER
AND WASTE MANAGEMENT,
WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Appellee.

AGREED ORDER GRANTING STAY

Appeal No. 24-04-EQB and the accompanying Motion for Stay was filed with the West Virginia Environmental Quality Board (hereinafter “Board”) on March 20, 2024. Oral arguments were scheduled for March 25, 2024.

On March 22, 2024, the Parties notified this Board that an agreement on Stay had been reached and that oral arguments were no longer necessary. Having reviewed the positions of the Parties, this Board finds that entry of an Agreed Order Granting Stay is appropriate and hereby ORDERS as follows:

1. Appellee West Virginia Department of Environmental Protection’s (hereinafter “Appellee” or “WVDEP”) February 20, 2024, denial of Appellant Lackawanna Transport Company’s, d/b/a Wetzel County Landfill (hereinafter “Wetzel Landfill”) minor permit modification to accept and dispose of special waste as generated by Appellant Fluid Management Solutions, Inc. (hereinafter “FMS”) is hereby STAYED until resolution of this matter is reached or a Final Order of this Board is entered.
2. Pursuant to this Stay, Wetzel Landfill may accept and dispose of special waste generated by FMS in accordance with all requirements of the special waste minor permit modification, SWPU ID No. 23-02-03, issued to Wetzel Landfill on February 22, 2023, relating to waste generated by FMS throughout the pendency of this Appeal. Wetzel Landfill and FMS shall be subject to all terms and conditions of this February 22, 2023,

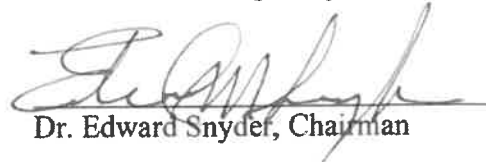
minor permit modification and shall further be subject to any other applicable statutory and regulatory requirements relating to such disposals, including all monitoring requirements contained within the applicable rules prior to disposal.

3. Further, Wetzel Landfill and FMS agree that, during the pendency of this Stay, neither party shall send nor receive special waste to Wetzel Landfill above the waste radiation levels specifically prescribed in W. Va. Code R. §§ 33-1-5.6 and 33-1A-3.4.

WHEREFORE this Board hereby GRANTS the Parties' request that an Agreed Order Granting Stay be entered and ORDERS that WVDEP's February 20, 2024, denial of Wetzel Landfill's special waste minor permit modification for the acceptance and disposal of waste generated by FMS be Stayed, subject to the specific requirements herein, for the pendency of this Appeal.

It is so **ORDERED** and **ENTERED** this 25th day of March, 2024

Environmental Quality Board



Dr. Edward Snyder, Chairman

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

**LACKAWANNA TRANSPORT COMPANY
DBA WETZEL COUNTY LANDFILL AND
FLUID MANAGEMENT SOLUTIONS, INC.,**

Appellants,

v.

Appeal No. 24-04-EQB

**DIRECTOR, DIVISION OF WATER AND
WASTE MANAGEMENT, WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION,**

Appellee.

CERTIFICATE OF SERVICE

I, Kenna M. DeRaimo, Clerk for the Environmental Quality Board, hereby certify that on this day, the 26th of March, 2024, have served a true copy of the foregoing **AGREED ORDER**

GRANTING STAYE to the following:

Armando F. Benincasa, Esq.
Marissa G. Nortz, Esq.
Allyn G. Turner, Esq.
STEPTOE & JOHNSON PLLC
707 Virginia Street, East
Charleston, WV 25301

Via Certified U.S. First Class Mail

9489 0090 0027 6501 9599 80

Charles S. Driver, Esq.
Chance J. Chapman, Esq.
WV DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF LEGAL SERVICES
601 57th Street, S.E.
Charleston, WV 25304
Counsel for Appellee
West Virginia Department of Environmental Protection

Via Interdepartmental Mail


Kenna M. DeRaimo, Clerk