



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD



DEPARTMENT OF HOMELAND SECURITY, :
U.S. IMMIGRATION AND CUSTOMS :
ENFORCEMENT :

v.

EHB Docket No. 2026-030-L

COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF ENVIRONMENTAL :
PROTECTION :

PRE-HEARING ORDER NO. 1

IT IS HEREBY ORDERED as follows:

SCHEDULING DISCOVERY AND FILING OF DISPOSITIVE MOTIONS

1. The above matter has been assigned to **The Honorable Bernard A. Labuskes, Jr.** for primary handling.
2. The **Board's Rules** are published at Chapter 1021 of Title 25 of the Pennsylvania Code, 25 Pa. Code §§ 1021.1 – 1021.201, and are available on the Board's website at Rules of Practice and Procedure. Failure to adhere to the Board's Rules may result in the imposition of sanctions, including but not limited to dismissal of an appeal.
3. **Amendment of Appeal** - An appellant may amend its appeal as of right within **20** days of the date the appeal was filed and docketed by filing an amended notice of appeal with the Board. Thereafter, any appellant desiring to amend an appeal must do so by filing a motion for leave to amend, setting forth the basis for the request pursuant to 25 Pa. Code § 1021.53. A motion to amend need not be accompanied by a memorandum of law pursuant to 25 Pa. Code § 1021.95(d) if it is consented to by all parties, but it must be verified and supported by affidavits.
4. **Confer as to Settlement** - Within **45** days of the date of this pre-hearing order, the parties shall confer about settlement of some or all of the issues raised in this appeal. The parties shall file a Joint Statement within **60** days of the date of this pre-hearing order, **June 8, 2026**, certifying that they have conferred about settlement.
5. **Board Conference Call** - Within **120** days of the date of this pre-hearing order, the Board shall hold a conference call with the parties to discuss, among other things, pre-hearing deadlines, the likelihood of settlement, and whether an expedited hearing may be appropriate. The Board may waive the conference call at its discretion.



6. **Discovery** - Discovery in proceedings before the Board is governed by the Pennsylvania Rules of Civil Procedure unless otherwise provided in the Board's Rules. Unless otherwise ordered by the Board, **discovery**, including the exchange of expert reports, if any, shall be *completed* within **180** days of the date of this pre-hearing order, **October 5, 2026**, unless extended for good cause upon written motion. 25 Pa. Code § 1021.101(a). All written discovery must be *served* no later than **30** days prior to the end of discovery, **September 8, 2026**, unless extended for good cause upon written motion. If the parties wish to propose an alternate schedule for discovery, they should refer to paragraph 8. Subpoenas for discovery purposes may be served in accordance with the Pennsylvania Rules of Civil Procedure. The service of an expert report together with a statement of qualifications may be substituted for answers to expert interrogatories. Expert discovery shall be governed by Pa. R.C.P. 4003.5.

7. **Dispositive Motions** - Unless otherwise ordered by the Board, **dispositive motions** shall be filed within **210** days of the date of this pre-hearing order, **November 4, 2026**. The motions shall comply with the Board's rules on dispositive motions at 25 Pa. Code §§ 1021.94 and 1021.94a. If the parties wish to propose an alternate schedule for the filing of dispositive motions, they should refer to paragraph 8.

8. **Alternate Case Management Schedule** - If the parties wish to propose an alternate schedule to the one set forth in paragraphs 6 and 7, they may file a joint motion for an Alternate Case Management Schedule which shall include a Joint Proposed Case Management Order setting forth alternate dates for the conclusion of discovery, the filing of dispositive motions and any other matters addressed in the motion. If the parties wish to have a separate deadline for the filing of expert reports, they may request it as part of the Joint Proposed Case Management Order. At any time, parties may also submit a motion for an expedited hearing pursuant to 25 Pa. Code §§ 1021.96a – 1021.96d.

9. **Requests for Continuance or Extension** - Any request for continuance, or for extending any filing deadline, must be made as a formal motion, pursuant to 25 Pa. Code § 1021.92, except when an opposing party consents to the continuance or extension. When there is such consent, the request may be embodied in an informal letter, provided the letter indicates the consent of the opposing party or parties. Requests for extensions or continuances and the accompanying proposed order, whether in letter or motion form, shall contain a specific date for the extension or continuance.

10. **Response to Petition or Motion** - Any party desiring to respond to a petition or motion must do so within the time set forth in 25 Pa. Code §§ 1021.91 – 1021.95, unless otherwise ordered. A party will be deemed to have waived the right to contest any motion or petition to which a timely response has not been filed. The Board will not notify the parties that a response may be due.



DATED: April 8, 2026

c: DEP, Office of Chief Counsel:
Attention: Cassandra Lehn
(via *electronic mail*)

For Appellant:
Daniel R. Wilmoth, Esquire
(via *electronic filing system*)

Potential Intervenor:
Schuylkill County Municipal Authority
221 South Centre Street
Pottsville, PA 17901
(via *first class U.S. mail*)

Tremont Township
166 Molleystown Road
Pine Grove, PA 17963
(via *first class U.S. mail*)

Upper Bern Township
25 N. 5th Street
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