

SIERRA CLUB, CLEAN AIR COUNCIL AND :
PENN ENVIRONMENT :
 :
 v. :
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 :
 COMMONWEALTH OF PENNSYLVANIA, :
 DEPARTMENT OF ENVIRONMENTAL :
 PROTECTION :

EHB Docket No. 2012-067-L

PRE-HEARING ORDER NO. 1
SCHEDULING DISCOVERY AND FILING OF DISPOSITIVE MOTIONS

IT IS HEREBY ORDERED as follows:

1. The above matter has been assigned to **The Honorable Bernard A. Labuskes, Jr.**, for primary handling.
2. Any 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 as authorized by 25 Pa. Code § 1021.53. If the Board grants the motion for leave to amend, the appeal may be amended by filing an amended appeal with the Board within the time allowed by the Board's Order. A motion to amend, or other miscellaneous motion, 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.
3. All discovery in this matter shall be completed within **180** days of the date of this pre-hearing order, **October 9, 2012**, unless extended for good cause upon written motion. The service of an expert report together with a statement of qualifications may be substituted for an answer to expert interrogatories. Subpoenas for discovery purposes may be issued by Counsel in accordance with the Pennsylvania Rules of Civil Procedure.
4. Within the first 45 days of the discovery period specified in Paragraph 3 hereof the parties shall meet and discuss the settlement of some or all of the issues raised in this appeal.
5. All dispositive motions shall be filed within **210** days of the date of this pre-hearing order, **November 7, 2012**. The motions shall comply with the Board's rules on dispositive motions at 25 Pa. Code §§ 1021.94 and 1021.94a.
6. As an alternative to this schedule, the parties may, within 60 days of the date of this



PRE-HEARING ORDER NO. 1

pre-hearing order, submit a Joint Proposed Case Management Order to the Board, which shall, among other things, propose alternate dates for the conclusion of discovery and the filing of dispositive motions.

7. 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 opposing counsel consent 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 opposing counsel. Requests for extensions or continuances and a proposed form of Order, whether in letter or motion form, shall contain a specific date for the extension or continuance.

8. 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.

9. After the Board resolves all dispositive motions, it will establish a hearing date for the remaining issues. The Board may also direct that the parties meet prior to the hearing to stipulate to uncontested facts, the qualifications of experts and the admissibility of exhibits.

ENVIRONMENTAL HEARING BOARD

THOMAS W. RENWAND
Chief Judge and Chairman

DATED: April 10, 2012

c: Department Litigation:
Attention: Glenda Davidson

For the Commonwealth of PA, DEP:
Office of Chief Counsel – Southwest Region

For Appellants:
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