COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

NATHAN EACHUS	:	
	:	
v.	:	**EHB Docket No. 2025-131-L**
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION and MOXIE FREEDOM, LLC, dba CAITHNESS MOXIE FREEDOM, Permittee	:	**Issued: February 18, 2026**

OPINION AND ORDER ON
MOTION TO DENY SUPERSEDEAS PETITION WITHOUT A HEARING

By Bernard A. Labuskes, Jr., Board Member and Judge

Synopsis

The Board grants a motion to deny an appellant's petition for supersedeas without a hearing where the appellant has not filed a petition meeting the requirements of our Rules. The petition fails to plead facts with particularity, is not supported by affidavits, fails to cite legal authority, and does not state grounds sufficient for granting a supersedeas.

O P I N I O N

Nathan Eachus, proceeding *pro se*, has appealed the renewal of Title V Operating Permit No. 40-00129 issued to Moxie Freedom, LLC ("Moxie") by the Department of Environmental Protection (the "Department"). The permit is for the emissions associated with a natural gas electricity generation station owned and operated by Moxie in Salem Township, Luzerne County. According to the Department, Moxie's facility commenced operations in 2018 pursuant to a plan approval and Moxie received its initial Title V permit in 2020. Mr. Eachus tells us that Moxie's facility is adjacent to a nuclear power plant known as the Susquehanna Steam Electric Station.

On December 21, Mr. Eachus filed an amendment to his notice of appeal, which also included a petition for supersedeas and various other filings, including a "Motion for Expedited Hearing and Administrative Record Production," a "Sunshine Act Compliance Outline," a "Consolidated Notice of Intervening Federal Non-Action," and a "PA EHB Theory of Illegality." In Mr. Eachus's petition for supersedeas, he states that he seeks "an immediate supersedeas staying the effectiveness and operation of DEP approvals and permits issued to Moxie Freedom, LLC d/b/a Caithness Moxie Freedom at the Susquehanna Nuclear Campus in Salem Township, Luzerne County, Pennsylvania, pending resolution of this appeal." (Petition at 1.) He explains that his petition arises from an October 28, 2025 explosion at what he calls the Caithness-Moxie/Talen Energy campus, which he says is within the ten-mile United States Nuclear Regulatory Commission (NRC) Emergency Planning Zone (EPZ) of the Susquehanna Steam Electric Station, along with "DEP's admitted failure to evaluate explosion risk, cumulative hazard, or nuclear emergency-planning impacts" before issuing permits authorizing hydrogen storage, the storage of diesel fuel, "continuous methane-fueled turbine generation powering data centers," and an underground liquified natural gas pipeline. (*Id.*)

At the time the petition for supersedeas was filed, no counsel had entered an appearance on behalf of Moxie. Staff for the Board contacted Mr. Eachus and counsel for the Department to ask if either of them had any contact information for anyone associated with Moxie. Counsel for the Department provided the names of two people he believed to be associated with the facility. Mr. Eachus did not respond with any contact information. Staff from the Board placed calls over the following week before getting in touch with someone from Moxie on December 29. Counsel for Moxie entered an appearance in this matter on January 2, 2026. Later that day, Moxie filed a motion to dismiss this appeal, arguing that the appeal was untimely. Because that motion appeared

to raise legitimate concerns regarding our jurisdiction, we issued an Order holding Mr. Eachus's petition for supersedeas in abeyance pending resolution of the motion. On February 11, we issued an Opinion and Order denying Moxie's motion to dismiss because it was not clear and free from doubt that Mr. Eachus's appeal was untimely under the Air Pollution Control Act and the air quality regulations in light of alleged deficiencies in the public comment notice that was to be published by Moxie in a newspaper of general circulation.

In the meantime, on January 20, the Department filed a motion to deny Mr. Eachus's petition for supersedeas without a hearing. The Department argues that Mr. Eachus's supersedeas petition does not comply with any of the requirements set forth in the Board's Rules on petitions for supersedeas and the Department seeks denial of the petition pursuant to 25 Pa. Code § 1021.62(c). On January 23, Moxie filed a brief response in support of the motion. Mr. Eachus did not file a response to the Department's motion. Having decided Moxie's motion to dismiss, we now consider Mr. Eachus's petition for supersedeas and the Department's motion to deny it without a hearing. For the reasons explained below, we grant the Department's motion and deny the petition.

Supersedeas Standard

The Environmental Hearing Board Act of 1988, 35 P.S. §§ 7511 – 7514, provides adversely affected parties with the right to file an appeal from a Department action. No appeal acts as an automatic supersedeas, but the Board may grant a supersedeas upon cause shown. 35 P.S. § 7514(d)(1). The Board's Rules define a supersedeas as "[a] suspension of the effect of an action of the Department pending proceedings before the Board." 25 Pa. Code § 1021.2. Among the factors to be considered are (1) irreparable harm to the petitioner, (2) the likelihood of the petitioner prevailing on the merits, and (3) the likelihood of injury to the public or other parties. 35 P.S. §

7514(d); 25 Pa. Code § 1021.63(a). "The central purpose of a supersedeas is to prevent an appellant from suffering irreparable harm while the Board considers the appeal." *Friends of High Point Lake v. DEP*, 2025 EHB 687, 693 (quoting *Center for Coalfield Justice v. DEP*, 2017 EHB 38, 55).

Our Rules spell out the detailed requirements that need to be contained in a petition for supersedeas, which include pleading facts with particularity, supported by affidavits or an explanation why affidavits have not been included, and citations to specific legal authority to support granting a supersedeas:

> (a) A petition for supersedeas shall plead facts with particularity and shall be supported by one of the following:
>
> (1) Affidavits, prepared as specified in Pa.R.C.P. 76 and 1035.4 (relating to definitions; and motion for summary judgment), setting forth facts upon which issuance of the supersedeas may depend.
>
> (2) An explanation of why affidavits have not accompanied the petition if no supporting affidavits are submitted with the petition for supersedeas.
>
> (b) A petition for supersedeas shall state with particularity the citations of legal authority the petitioner believes form the basis for the grant of supersedeas.

25 Pa. Code § 1021.62(a)-(b). These requirements are important because, as we have said many times before, "[a] supersedeas is an extraordinary remedy that places a heavy burden on the petitioners to make a clear showing of need." *Liberty Twp. v. DEP*, 2023 EHB 158, 166 (quoting *Center for Coalfield Justice v. DEP*, 2018 EHB 758, 764 (citing *Emerald Contura, LLC v. DEP*, 2017 EHB 670, 672-73)). *See also Nicholas Meat, LLC v. DEP*, 2021 EHB 96, 100 (quoting *Erie Coke Corp. v. DEP*, 2019 EHB 481, 484) (supersedeas will not issue "absent a **clear demonstration of need**" (emphasis in original)); *Pa. Fish and Boat Comm'n v. DEP*, 2004 EHB 473, 476 ("we must keep in mind that superseding a Department action is an extraordinary remedy that may be granted only where the evidence indicates it is clearly warranted.").

As we explained in *Dougherty v. DEP*, 2014 EHB 9, the extraordinary nature of a supersedeas demands that a petition for supersedeas essentially make out a *prima facie* case for granting a supersedeas:

> Given the fact that a supersedeas is an extraordinary measure that is not to be taken lightly, it is critical that a petition for supersedeas plead facts and law with particularity and be supported by affidavits setting forth facts upon which issuance of the supersedeas may depend. 25 Pa. Code § 1021.62(a). The pleadings and affidavits must be such that, if the petitioner were able to prove the allegations set forth in its pleadings and affidavits at a hearing, and the Department and/or permittee did not put on a case, it would be apparent from the filings that the Board would be able, if it so chose, to issue a supersedeas. In other words, the petitioner's papers, on their face, must set forth what is essentially a *prima facie* case for the issuance of a supersedeas. *See Global Eco-Logical Servs. v. DEP*, 2000 EHB 829, 832; *A&M Composting v. DEP*, 1997 EHB 1093, 1098.

Id. at 12-13. Where a petition along with its supporting documents does not provide a basis for granting a supersedeas, it will be denied. *Id.* at 13 (citing *Mellinger v. DEP*, 2013 EHB 322).

Under our Rules, a petition for supersedeas may be denied upon motion or *sua sponte* without a hearing for one of the following reasons: (1) lack of particularity in the facts pleaded; (2) lack of particularity in the legal authority cited as the basis for the grant of the supersedeas; (3) an inadequately explained failure to support factual allegations by affidavits; or (4) a failure to state grounds sufficient for the granting of a supersedeas. 25 Pa. Code § 1021.62(c). Mr. Eachus's petition is deficient for each of these reasons and must be denied without a hearing.

Lack of Particularity in the Facts Pleaded

Mr. Eachus has filed six exhibits in support of his petition for supersedeas, but none of them contain any verifiable facts that support the claims made in his petition or set forth a *prima facie* case for a supersedeas. Exhibit A is a November 19, 2025 email from the Department to Mr. Eachus responding to comments he submitted to the Department on November 5. We do not have Mr. Eachus's comments but he appears to have raised the issue that, under the air quality

regulations, notice of the Department's intent to issue the permit and the provision of a 30-day comment period was supposed to have been published by Moxie in a newspaper of general circulation for three days but was only published on one day. *See* 25 Pa. Code § 127.424(b). The email addresses three topics that were apparently raised by Mr. Eachus in his comments. In response to a request to suspend Moxie's permit until a 30-day public comment period that complied with the regulations was conducted, the Department said that it did not intend to suspend the Title V permit and that newspaper notice would be republished on three separate days and the Department would receive any additional public comments. The Department next addressed a request to conduct an "independent cumulative risk assessment of the Salem Township energy campus, including explosive, chemical, and radiological hazards to be provided by the NRC." The Department stated that Moxie's plan approval application contained a Prevention of Significant Deterioration air quality modeling analysis that accounted for Moxie's emissions as well as other emissions sources within a certain area, which did not indicate that Moxie's facility would cause or contribute to air pollution in violation of the National Ambient Air Quality Standards. The Department stated that the air quality program does not cover radiological hazards but it pointed to conditions in the Title V permit addressing accidental releases and the requirement to develop and implement a risk management plan. The third request was for a written response from the Department explaining how it will ensure compliance with the public notice rules for Title V permits and ensure transparency in the permitting process. The Department stated that it publishes all required notices in the *Pennsylvania Bulletin* and that it was requiring Moxie to publish three days of newspaper notice.

Exhibit B is a July 11, 2024 email from Mr. Eachus addressed to the Department that appears to reflect public testimony Mr. Eachus gave on July 10 concerning Title V permits for

what he identifies as the Hazleton Generation Power Plant in Hazle Township and in Schuylkill County. His email discusses alleged Sunshine Act violations, air and water pollution from natural gas fracking development, environmental justice communities, air pollution more generally, and litigation over a certain natural gas pipeline. Exhibit C is a March 5, 2025 email from Mr. Eachus to the Department with the subject line "Testimony Coming Soon." In the email Mr. Eachus says he "challenge[s] the validity of the NE PA DEP Wilkes Barre Office legal decision that would grant a waiver to this company allowing for RACT 2 to RACT 3 conversion and without meeting Title V requirements." The email appears to address a facility named or operated by Hazleton Generation.

Exhibit D is a copy of the regulation at 25 Pa. Code § 127.521 regarding public notice provisions particular to Title V facilities, and a portion of the regulation at 25 Pa. Code § 127.522 regarding the review of Title V permits by the United States Environmental Protection Agency and nearby states. Exhibit E is a copy of the June 14, 2025 notice in the *Pennsylvania Bulletin* of the Department's intent to issue the renewal of Moxie's permit. Exhibit F is a copy of another page from the June 14, 2025 *Pennsylvania Bulletin* that appears to be related to some other unidentified facility with air emissions. Mr. Eachus identifies the exhibit in his petition as "Example of no public review of Moxie compared to other Title V permits."

Apart from listing the exhibits at the end of the supersedeas petition, none of the exhibits are discussed at all in the petition or accompanying documents. Mr. Eachus does not explain the relevance of the documents or how they support his request for a supersedeas. Only two of the exhibits, Exhibits A and E, appear to directly relate to Moxie's facility, and one of those is simply the *Pennsylvania Bulletin* notice of intent to issue the permit. They do not contain any particular facts to support the issuance of a supersedeas.

Mr. Eachus complains in his papers about safety risks, but he does not clearly articulate let alone quantify what the risks are. The petition does not document any specific or verifiable hazard. Mr. Eachus merely states generally that these hazards exist, but he does not explain what they are, how they could happen, or how likely or unlikely the risks are. He does not support his claims with any documentation. He complains about an alleged October 28 explosion of a hydrogen tank, but we have no idea where that tank is, what operation it is associated with, or anything about the circumstances of the explosion. He says the "explosion directly affected nuclear operations, resulting in a Unit 2 generator trip and reactor scram at the Susquehanna Steam Electric Station," but he does not substantiate this with any verifiable facts. Regardless, he does not explain how the alleged explosion should factor into an analysis of whether or not Moxie's Title V permit should have been renewed. Simply saying that there is a risk of fire and explosion without explaining it is not sufficient for a supersedeas. *Mellinger, supra* at 325-26 ("Appellant asserts that Big Spring Creek, which is designated as Exception[al] Value, is threatened, but Appellant does not specify how it is threatened in any manner. Simply stating that something is 'threatened' without explanation is not sufficient.").

Mr. Eachus refers to an Emergency Planning Zone (EPZ) encompassing a 10-mile radius within which Mr. Eachus says he lives. This is apparently a zone that is relevant to nuclear energy facilities. Mr. Eachus never clearly explains what the threats and risks are of Moxie's facility in the context of the Emergency Planning Zone, or produces any facts related to those risks. He seems to believe the risks are self-evident, but that is not enough for a petition for supersedeas. He does not identify any aspect of Moxie's permit that is deficient in light of the Emergency Planning Zone. He does not identify the proximity of the nuclear power plant to Moxie's facility or describe how any fire or explosion could possibly happen at Moxie's facility that would then impact the

nuclear plant or impede any evacuation routes within the Emergency Planning Zone. Nor has he established that he would be qualified to make such an assessment. *See Dougherty, supra*, 2014 EHB at 14 (no indication that appellant qualified to aver in supersedeas petition that operations were "highly hazardous" or would cause "serious risk of death"). If Mr. Eachus fears that a fire or explosion could somehow trigger some sort of a nuclear or radiological emergency, he has fallen far short of supporting that with any credible facts for purposes of a supersedeas. *Mellinger, supra*, 2013 EHB at 328 (general assertions of irreparable harm without greater specificity are not sufficient).

More importantly, nowhere in Mr. Eachus's petition for supersedeas is there any specific critique of Moxie's Title V permit or any permit term or condition. This appeal will likely turn on the requirements of the Air Pollution Control Act, 35 P.S. §§ 4001 – 4015, the applicable air quality regulations, and technical evidence about the facility and the requirements of the permit. In order to ultimately prevail in the appeal, Mr. Eachus will need to prove by a preponderance of the evidence that the Department's renewal of Moxie's Title V permit was unlawful in that the Department violated a statutory, regulatory, or adjudicatory law or acted contrary to its duties under the Pennsylvania Constitution, or that the Department's action was otherwise unreasonable or not supported by the facts. *Dougherty*, 2014 EHB at 13. Even if we accept all of Mr. Eachus's allegations, there is nothing in them that justifies his request for supersedeas. *See Dickinson Twp. v. DEP*, 2002 EHB 267, 268 (even accepting all of the petitioner's allegations as true, there is no need for an evidentiary hearing where there is little likelihood of success on the merits). The lack of specific facts to support Mr. Eachus's claims renders the petition deficient under 25 Pa. Code § 1021.62(c)(1) and it must be denied.

Lack of Affidavits

Compounding the factual deficiencies in the petition, Mr. Eachus has also failed to supply any affidavits in support of his petition or explain why affidavits were not included. Mr. Eachus includes a verification with his petition and accompanying filings, asserting that the filings are true and correct to the best of his knowledge, information, and belief, and citing 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities. However, he attaches no factual affidavits in support of his petition. This alone is enough to warrant denial of the petition without a hearing under 25 Pa. Code § 1021.62(c)(3). *VanDuzer v. DEP*, 2018 EHB 696, 703; *Timber River Dev. Corp. v. DEP*, 2008 EHB 635, 636 (denying supersedeas petition because of the failure to include any factual assertions supported by proper affidavits or to supply any explanation of why affidavits were not included).

Lack of Particularity in the Legal Authority Cited

In Mr. Eachus's petition and accompanying "PA EHB Theory of Illegality," other than citing one of our Rules on petitions for supersedeas, there is no legal authority cited. This provides still another basis for denying the petition. 25 Pa. Code § 1021.62(c)(2); *VanDuzer*, 2018 EHB at 702. He has not cited any Environmental Hearing Board case discussing a supersedeas, or any Board case at all for that matter. He has not cited any provision of the Air Pollution Control Act. He does not cite any air quality regulation in his petition. He does attach a copy of 25 Pa. Code § 127.521 and a portion of 25 Pa. Code § 127.522 as an exhibit, but he does not make any legal argument concerning these regulations.

Failure to State Grounds Sufficient for Granting a Supersedeas

Largely because Mr. Eachus has failed to support his petition for supersedeas with facts or any legal authority, he has similarly failed to establish grounds sufficient for granting a supersedeas

in terms of irreparable harm, a likelihood of harm to the public, or a likelihood of success on the merits. With respect to irreparable harm, it is important to keep in mind that this appeal concerns a renewal of a Title V operating permit. According to the Department, Moxie's power plant commenced operations in 2018 pursuant to a 2015 plan approval and received its initial operating permit in 2020. (DEP Ex. A, B, C.) The power plant has been operating for approximately eight years at this point. Mr. Eachus has not identified any new harm particular to the renewal permit that justifies the extraordinary relief of a supersedeas.

In his petition for supersedeas, Mr. Eachus's assertion of irreparable harm consists of the following:

> The absence of any Nuclear Regulatory Commission Unreviewed Safety Question determination regarding cumulative explosive hazards inside a nuclear Emergency Planning Zone constitutes irreparable harm per se. Pennsylvania courts consistently hold that threats to public safety and emergency preparedness cannot be remedied after the fact.
>
> Under the challenged PA DEP permits, continued operation or expansion of explosive fuel infrastructure adjacent to an operating nuclear reactor, without cumulative hazard review, irreversibly undermines EPZ integrity, evacuation planning, and nuclear emergency readiness.
>
> The record establishes non-speculative, ongoing risk of:
>
> • Secondary or cascading explosions;
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> • Fire propagation toward nuclear safety systems;
>
> • Compromise of EPZ evacuation routes;
>
> • Undermining of NRC-mandated emergency planning.
>
> Explosive risk inside a nuclear EPZ constitutes irreparable harm as a matter of law.

(Petition at 2.) However, as discussed above, there is nothing in the petition or the exhibits accompanying the petition that substantiates "secondary or cascading explosions," "fire propagation toward nuclear safety systems," the "compromise of EPZ evacuation routes," or the "undermining of NRC-mandated emergency planning."

There is also nothing supporting the claim that the "absence of any Nuclear Regulatory Commission Unreviewed Safety Question determination…constitutes irreparable harm per se." Mr. Eachus asserts that "[t]he factual record establishes conditions that meet the threshold of an Unreviewed Safety Question, including the introduction of new hazards, increased accident consequences, and accident types not previously evaluated." (Theory of Illegality at 3.) But there is no foundation for these claims or any citation to any law or regulation about an Unreviewed Safety Question or any explanation of how this relates to the Title V permit.

Regarding likelihood of success on the merits, Mr. Eachus asserts in his petition:

> DEP admits it conducted no explosion risk analysis, no cumulative hazard assessment, and no EPZ integration review, instead deflecting responsibility to other agencies that produced no record. Such decision-making violates settled Pennsylvania administrative law prohibiting arbitrary, capricious, or incomplete action where public safety is implicated, rendering the permits unlawful and subject to immediate supersedeas.

(Petition at 2.) However, Mr. Eachus does not point to any provision of the Air Pollution Control Act or regulations requiring the Department to conduct these analyses. He does not explain what an "explosion risk analysis," "cumulative hazard assessment," or "EPZ integration review" are and he has not shown that these analyses, if they had been performed, would have made a material difference in the permit. Mr. Eachus does not offer any specific critique of the facility or the permit. He does not contest any of the emissions limits contained in the permit or any reporting requirements. The fact that Mr. Eachus filed an almost identical petition for supersedeas in a separate appeal of an above-ground storage tank permit issued to a different permittee is indicative of just how unspecific his claims are to the operation and permit under appeal.

Mr. Eachus also raises some issues in his papers that are beyond the scope of this proceeding or do not justify superseding Moxie's permit. One example is Mr. Eachus's complaints with respect to the Sunshine Act, 65 Pa.C.S. §§ 701 – 716. In the package of documents filed

along with the petition for supersedeas, Mr. Eachus has filed a "Sunshine Act Complaint Outline." He says that "Respondents," who he identifies as the Department of Environmental Protection, the Pennsylvania Emergency Management Agency, and the Department of Labor and Industry "conducted no public meeting, no public deliberation, and no public disclosure addressing the nuclear safety implications of authorizing and expanding explosive fuel infrastructure within the EPZ." (Sunshine Act Complaint at 1.) Under the Relief Sought section of the Sunshine Act Complaint Mr. Eachus asks for:

> • An order declaring all permitting actions taken without public deliberation of unresolved nuclear safety implications void pursuant to 65 Pa.C.S. § 713;
> • A declaration that such permitting actions are void;
> • Injunction against continued operation;
> • Mandatory disclosure of the following:
> o Emergency deliberations;
> o Meeting minutes;
> o Inter-agency memoranda of understanding.

(Sunshine Act Complaint at 2.)

Initially, he does not explain how the renewal of Moxie's Title V permit constitutes "expanding explosive fuel infrastructure." More fundamentally, our jurisdiction is limited to final Department actions. 35 P.S. § 7514; *Jake v. DEP*, 2014 EHB 38, 59. We have no jurisdiction over alleged violations of the Sunshine Act, let alone the authority to declare all permitting actions void pursuant to a provision of the Sunshine Act. Under 65 Pa.C.S. § 715, jurisdiction over Sunshine Act matters rests with the Commonwealth Court or the Courts of Common Pleas.[1] We held in

[1] 65 Pa.C.S. § 715 provides:

> **§ 715. Jurisdiction and venue of judicial proceedings.**
>
> The Commonwealth Court shall have original jurisdiction of actions involving State agencies and the courts of common pleas shall have original jurisdiction of actions involving other agencies to render declaratory judgments or to enforce this chapter by

Dengel v. DEP, 2024 EHB 605, that, based upon a review of the case law and the language of the Sunshine Act, "it is clear that the Board is without jurisdiction to hear claims arising from the Sunshine Act." *Id.* at 611. *See also Dep't of Envtl. Res. v. Steward*, 357 A.2d 255, 257 (Pa. Cmwlth. 1976) (finding that an earlier version of the Sunshine Law was unequivocal that the Board lacked jurisdiction); *O'Hare v. County of Northampton*, 782 A.2d 7, 14 (Pa. Cmwlth. 2001) (citing *Steward* for the proposition that the Board lacks jurisdiction to resolve alleged violations of the Sunshine Act).

Although not directly addressed in his petition for supersedeas, the only issue that Mr. Eachus raises that might conceivably have some validity based on what we have before us now is whether proper notice was given of the Department's *intent to issue* the renewal permit. (There is no dispute that proper notice was given of the permit renewal *issuance*.) As discussed in our Opinion on the motion to dismiss, whether proper notice was given is not clear, but we can assume for purposes of the petition for supersedeas that it was not.

Mr. Eachus's contention that the lack of notice renders the renewed permit void has an exceedingly low likelihood of success. *See Groce v. DEP*, 2006 EHB 856, 939-40; *PRIZM Asset Mgmt. Co. v. DEP*, 2005 EHB 819, 851; *Kleissler v. DEP*, 2002 EHB 737, 750-51. Rather, the remedy is ordinarily an order requiring the Department to ensure proper notice and consider any new comments. *Id.* Here, that has already occurred. The Department already directed Moxie to republish the newspaper notice on three days, which it did. No comments were received. Furthermore, the Department responded to the comments Mr. Eachus previously made that alerted the Department to the issue and triggered the republication of notice, as shown in Exhibit A to the

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injunction or other remedy deemed appropriate by the court. The action may be brought by any person where the agency whose act is complained of is located or where the act complained of occurred.

petition. Even if we make the farfetched assumption that some remedy could be appropriate beyond what has already been done that would implicate the ongoing validity of the permit *renewal*, it does not follow that such a remedy would have any impact on the underlying permit for a facility that has been in operation since 2018. The Board retains discretion in fashioning an appropriate remedy. It is extremely unlikely that the Board would employ that discretion here in the context of a supersedeas to shut down an ongoing operation over a potential error in the public notice for the *renewal* of that facility's permit.

Because Mr. Eachus has not satisfied any of the necessary requirements for a petition for supersedeas, he has not established the threshold entitlement for a hearing on the petition. Accordingly, we issue the Order that follows.[2]

[2] On January 14, Mr. Eachus filed a Motion to Compel Prompt Supersedeas Action or Grant Interim Relief. In light of the foregoing Opinion and Order, this motion is moot.

COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

NATHAN EACHUS	:	
	:	
v.	:	**EHB Docket No. 2025-131-L**
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION and MOXIE FREEDOM, LLC, dba CAITHNESS MOXIE FREEDOM, Permittee	:	

O R D E R

AND NOW, this 18th day of February, 2026, it is hereby ordered that the Department's motion to deny the Appellant's petition for supersedeas without a hearing is **granted** and the Appellant's petition for supersedeas is **denied**. The Appellant's motion seeking to compel prompt action on his petition for supersedeas is moot.

ENVIRONMENTAL HEARING BOARD

s/ Bernard A. Labuskes, Jr.
BERNARD A. LABUSKES, JR.
Board Member and Judge

DATED: February 18, 2026

c: **DEP, General Law Division:**
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