



COMMONWEALTH OF PENNSYLVANIA  
ENVIRONMENTAL HEARING BOARD

<b>EQT PRODUCTION COMPANY and RICE</b>	:	
<b>DRILLING B LLC</b>	:	
	:	
v.	:	<b>EHB Docket No. 2024-117-W</b>
	:	
<b>COMMONWEALTH OF PENNSYLVANIA,</b>	:	
<b>DEPARTMENT OF ENVIRONMENTAL</b>	:	<b>Issued: March 9, 2026</b>
<b>PROTECTION</b>	:	

**OPINION AND ORDER ON  
PETITION TO INTERVENE**

**By MaryAnne Wesdock, Judge**

**Synopsis**

The Board grants a petition to intervene in an appeal of an order issued to an oil and gas company by the Department of Environmental Protection. The petitioner has sufficiently demonstrated a direct interest in the appeal.

**OPINION**

**Introduction**

EQT Production Company (EQT) is a Pennsylvania corporation engaged in various oil and gas exploration and production activities in Pennsylvania. Rice Drilling B LLC (Rice) is a Delaware limited liability company engaged in various gas exploration and production activities in Pennsylvania and is a wholly owned subsidiary of EQT Production Company. EQT and Rice (collectively, the Appellants) own and operate ten gas wells at the Brova Well Site (Brova Site) in North Bethlehem Township, Washington County.

At some point prior to December 4, 2021, underground metal piping connecting gas processing units and storage tanks at the Brova Site corroded, resulting in the leakage of brine into the ground. The failed piping leaked for a number of months, with the Appellants estimating a loss

of between 19,213 to 22,425 barrels of brine between December 2020 and December 2021, resulting in contamination of groundwater and multiple water supplies in the vicinity of the Brova Site. (Notice of Appeal Exhibit A, para. I.) Appellants reported the release of the brine to the Department and repaired the pipeline on the day that the leak was discovered (December 4, 2021).

The piping in question is referred to as a dump line. The Appellants' dump line was single walled, lacking secondary containment. According to the Department's Chapter 78a regulations, secondary containment is defined as a "physical barrier specifically designed to minimize releases into the environment of regulated substances from primary containment or well development pipelines, to prevent comingling of incompatible released regulated substances and to minimize the area of potential contamination, to the extent practicable." 25 Pa. Code § 78a.1. According to the Department, the regulations were amended in October 2016 to require secondary containment for dump lines. *See* 25 Pa. Code § 78a.64a.

In February 2022, the Appellants constructed a new dump line for the Brova Site. The new dump line was constructed with single-walled piping without secondary containment. Approximately one year later, in February 2023, the Department and Appellants executed a consent order and agreement as part of a settlement agreement to resolve liabilities pertaining to the leak at the Brova Site. Thereafter, on June 27, 2023, the Department issued the Appellants a notice of violation alleging that the new dump line installed at the Brova Site was in violation of 25 Pa. Code § 78a.64a due to a lack of secondary containment.

The Appellants operate a number of other well sites that have dump lines without secondary containment and that have experienced dump line failures, including the following well sites, all located within Washington and Greene Counties: Iron Man, Green Hill, Harold Haywood, Wolverine, Rumpelstiltskin, and Carpenter. On September 9, 2023, the Department issued a

subpoena to the Appellants requesting records regarding Appellants' well sites with plumbing similar to the Brova Site dump line. On October 25, 2023, Appellants responded to the subpoena with a number of documents and a letter objecting to the subpoena. On November 27, 2023, the Department responded to the Appellants' letter, explaining the deficiencies in the requested production. Thereafter on December 18, 2023, the Appellants sent an additional letter to the Department contesting the Department's power to seek the records at issue.

Rather than pursuing enforcement of the subpoena issued in September 2023, the Department elected to issue an Order on July 3, 2024 in furtherance of its investigation into the Appellants' compliance with Sections 3217(a) and 3218.2 of the Oil and Gas Act. The Department asserts that documents regarding the dump lines used at Appellants' other well sites are pertinent to its investigation and, under Section 3258 of the Oil and Gas Act, "The [D]epartment may make inspections, conduct tests or sampling or examine books, papers and records pertinent to a matter under investigation under this chapter to determine compliance with this chapter." 58 Pa.C.S. § 3258.

Pursuant to the July 2024 Order, the Department ordered the Appellants to produce records as follows:

A. All DOCUMENTS that identify, list, describe, or reference underground Dump Lines comprised of single walled metal pipes on EQT's Pennsylvania well sites.

B. All DOCUMENTS that include information related to EQT's investigation(s) of the integrity of Dump Lines at its well sites in Pennsylvania.

C. All DOCUMENTS that identify, describe, or reference leaks or releases of fluids from Dump Lines at EQT's well sites in Pennsylvania.

D. All DOCUMENTS regarding measures, steps, or efforts that EQT has taken or is considering taking to identify, inventory, monitor or list Dump Lines plumbed in whole or in part below ground at its well sites in Pennsylvania.



E. All DOCUMENTS regarding EQT’s policies, programs, or protocols regarding monitoring Dump Lines for leaks or releases.

In addition to ordering the production of records, the Department also ordered the Appellants to install secondary containment for the new dump line at the Brova Site, pursuant to 25 Pa. Code § 78a.64a(c) and (d).

On August 2, 2024, Appellants filed an appeal of the Department’s July 2024 Order with the Board, asserting that 25 Pa. Code § 78a.64a does not require secondary containment for dump lines such as that installed at the Brova Site after the leak incident. The Appellants further object to the Order on the following grounds: the parties’ 2023 settlement agreement fully resolved all issues relating to the Brova Site leak; the Department was aware that the Appellants were reconstructing the dump line without secondary containment and did not notify the Appellants that it believed the Appellants were in violation of any regulation at the time of or prior to construction; and 58 Pa. C.S. § 3258 does not authorize the Department to require production of the documents demanded in the Order.

According to status reports filed by the parties since the initial filing of the appeal, the Appellants and Department have been actively involved in settlement discussions since approximately March 2025. On February 12, 2026, the Center for Coalfield Justice (CCJ) filed a petition to intervene in the matter. On February 26, 2026, the Appellants filed an answer in opposition to CCJ’s petition to intervene. The Department filed a letter of no opposition to the petition to intervene.<sup>1</sup>

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<sup>1</sup> In its letter of no opposition to the petition to intervene, the Department reserved its right to oppose any argument or issue raised by CCJ and noted “that an intervention does not itself expand the objections at issue in this appeal.” (Department Letter of No Opposition to Petition to Intervene.)

## Standard for Intervention

The Environmental Hearing Board Act and the Board’s Rules of Practice and Procedure permit any interested person to petition the Board to intervene in any pending matter prior to the initial presentation of evidence. 35 P.S. § 7514(e); 25 Pa. Code § 1021.81(a). In the context of intervention, the phrase "interested party" means "any person or entity interested, i.e., concerned, in the proceedings before the Board.” *Mountain Watershed Association v. DEP*, 2024 EHB 476, 478 (quoting *Browning Ferris, Inc. v. Department of Environmental Resources*, 598 A.2d 1057, 1060 (Pa. Cmwlth. 1991)). A petition to intervene will be denied by the Board where “it fails to include sufficient legal grounds or verified factual averments to establish the right to intervene.” 25 Pa. Code § 1021.81(e).

This Board has held that “[t]he right to intervene in a pending appeal is comparable to the right to file an appeal at the outset and, therefore, an intervenor must have standing.” *CRG Services Management LLC v. DEP*, 2025 EHB 494, 496 (quoting *Mountain Watershed Association*, 2024 EHB at 479). While there is a relatively low burden for establishing standing for intervention in Board proceedings, the Commonwealth Court has directed that “a person seeking to intervene must have an interest that ‘will either gain or lose by direct operation of the Board’s ultimate determination.’” *Friends of Lackawanna v. DEP*, 2022 EHB 11, 13 (quoting *Browning-Ferris, Inc.*, 598 A.2d at 1060). In other words, a party must have a “direct interest” in the action. *Muth v. DEP*, 315 A.3d 185, 196 (Pa. Cmwlth. 2024) (quoting *Citizens Against Gambling Subsidies, Inc. v. Pa. Gaming Control Board*, 916 A.2d 624, 628 (Pa. 2007)). The requirement of a “direct interest” ensures that the Board concerns itself with “material interests that are discrete to some person or limited class of persons” rather than “more diffuse ones that are common among the citizenry.” *CRG Services Management LLC*, 2025 EHB at 496 (quoting *Muth*, 315 A.3d at 196).

An organization may establish standing in two ways—in its own right (organizational standing) or as a representative of its members (representational standing). *Petrus Holdings, Inc. v. DEP*, 2022 EHB 285, 286–87; *Lawson v. DEP*, 2018 EHB 265, 267. For an organization to have standing in its own right, we have found standing where the organization’s work, interests, and/or mission are sufficiently close to the subject matter of the appeal, such as if the organization’s mission and/or work includes the protection or improvement of the environment in the area affected by the Department’s action. *Citizens for Pennsylvania’s Future v. DEP*, 2025 EHB 275, 306–07 (quoting *Petrus Holdings, Inc.*, 2022 at 286–87; *Friends of Lackawanna v. DEP*, 2016 EHB 641, 648).

### **Discussion**

CCJ is a nonprofit membership organization with a stated mission to improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower and organize coalfield residents; and to protect public and environmental health. (Petition to Intervene, paras. 6–7.) According to its petition, CCJ works to educate individuals and communities about their legal rights and the scientific and technical context of unconventional drilling, and it communicates with its more than 230 members and 3,900 non-member supporters on a regular basis through emails and mailers. (*Id.*) CCJ asserts that two of its members live within a two-mile radius of the Brova Site. (*Id.* at para. 6; Petition Exhibit A, p.3 n.1.) CCJ primarily works in Washington County and Greene County, Pennsylvania. (Petition to Intervene, para. 8.)

CCJ asserts that it should be granted intervenor status in this appeal because it and its members have an interest in “opposing attempts to nullify a regulation that is legally ‘necessary’ to protect the groundwater resources that sustain them and their environment” with respect to the Department’s interpretation of 25 Pa. Code § 78a.64a. (*Id.* at para. 10.) CCJ asserts that it also has an interest in the enforcement of the Department’s investigatory authority under Section 3258 of

the Oil and Gas Act. More specifically, CCJ contends that it has an interest in defending the Department’s authority to obtain certain information from regulated entities because “[o]btaining, analyzing, translating, and communicating information about Southwestern Pennsylvania’s environmental resources is essential to CCJ’s operations,” and it obtains such information from the Department via informal file reviews and the state’s Right to Know Law. (*Id.* at para. 14.) The organization further argues that its interests are heightened because the Department noted in its Order that the Appellants’ dump lines have failed at numerous sites in Washington County and Greene County, presenting a “realistic potential of harm” to CCJ and its members. (*Id.* at para. 11.)

If granted leave to intervene in the appeal, CCJ states that it intends to offer argument and evidence, which it asserts will not be unduly duplicative, regarding:

- (a) The applicability of Rule 78a.64a to the common dump lines described in the Department’s July 3, 2024 Order.
- (b) The availability of equitable defenses like estoppel and waiver under the circumstances outlined in EQT’s Notice of Appeal.
- (c) The Department’s investigative authority under Section 3258 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3258.
- (d) The role of the Department’s investigative authority in upholding its fiduciary duties under Article I, Section 27 of the Pennsylvania Constitution.

While CCJ does intend to offer limited evidence on the issues, it states that it does not anticipate significant discovery. Because the request to intervene is being made prior to the initial presentation of evidence, it argues that the request is timely. *See* 25 Pa. Code § 1021.81(a). It further notes that the Board has not rendered any substantive rulings in the matter at this time.

In their answer in opposition to the petition to intervene, the Appellants argue that the petition should be denied because CCJ’s sole interest in the appeal is in the legal precedent that might be set regarding the Department’s ability to require secondary containment under 25 Pa.

Code § 78a.64a and to demand documents pursuant to its investigative authority under 58 Pa. C.S. § 3258. Moreover, the Appellants assert that while CCJ and its members may have interests in the environmental resources in Washington County and Greene County, CCJ failed to allege that such resources are presently at risk or are likely to be at risk in the future from operations at the Brova Site. Additionally, the Appellants note that CCJ did not supply affidavits from allegedly affected members, nor identify them by name or address so that their interests in the matter could be verified. Accordingly, Appellants argue that CCJ has no interest in this appeal other than a diffuse interest shared with the general public.

To help inform our decision in this matter, the Appellants instruct us to look to our prior decisions in *Brunner v. DEP*, 2003 EHB 186; *TJS Mining, Inc. v. DEP*, 2003 EHB 507; and *Lawson v. DEP*, 2017 EHB 1040, where this Board held that a concern regarding the legal precedent that may be established in a case is insufficient for the purposes of intervention. The cases relied upon by the Appellants, however, are distinguishable from the matter at hand.

In *Brunner*, the would-be intervenor failed to allege that its operations, or associated entities, were in any way connected to the Appellant's in that matter. *Brunner*, 2003 EHB at 189 (“There are no allegations that the operator of the three landfills used by [the would-be intervenor] has any connection to [the Appellant.]”). Here, we find that there is a connection between CCJ's operations and those of the Appellants at issue in this appeal. According to the affidavit provided by CCJ's Executive Director, Sarah Martik, the majority of CCJ's members reside, work, and/or recreate in Washington and Greene Counties; for more than three decades, CCJ's work has focused on the impacts of extractive industry in Washington and Greene Counties; and its staff perform tasks involving acting as a liaison between its members in Washington and Greene Counties and the Department. The Appellants are engaged in an extractive industry in both Washington and

Greene Counties, and the six well sites operated by the Appellants and referenced in the Department's Order, in addition to the Brova Site, are all located in Washington and Greene Counties. To say that there is no connection between the Appellants' operations at issue in this appeal and CCJ's operations would be a stretch.

In *TJS Mining, Inc.*, the would-be intervenor's sole basis for intervention was that it was prosecuting a separate, unrelated appeal before the Board that involved issues similar to the issues presented in that case. *TJS Mining, Inc.*, 2003 EHB at 508. In rejecting the petition to intervene, this Board noted that "[a] potential intervenor's interest must relate to a particular case and the outcome of *that* case, not just the topic being addressed." *TJS Mining, Inc.*, 2003 EHB at 510 (emphasis in original). Here, there is no indication that CCJ's basis for intervention is a concern that issues in this appeal may impact other litigation in which it is involved. Moreover, CCJ has more than a general interest in the topic being addressed in this appeal. As outlined above, CCJ conducts its operations primarily in Washington and Greene Counties, and the Brova Site is located within Washington County. If this appeal concerned Appellants' operations across the entire state, there may be a question as to whether CCJ's interest is direct. Here, however, it is clear that CCJ has an interest in this appeal greater than the interest of the general public. Should the Board rule in favor of the Appellants, CCJ's membership and its operations as an organization will undoubtedly be implicated. In particular, if the Board were to rule that the Appellants did not have to comply with the Department's Order, the Appellants would not be required to install secondary containment for the dump line at the Brova Site. As noted in the affidavit provided by the Executive Director of CCJ, Sarah Martik, "[a]t least one CCJ member lives within one mile of the Brova site, and an additional member lives within a two-mile radius of the site." While the Appellants argue that CCJ does not allege that environmental resources are presently at risk from any release at the

Brova Site or are likely to be at risk in the future, we disagree. CCJ asserts that if EQT is successful in arguing that it may continue to use “demonstrably failure-prone, single-walled dump lines at Brova and elsewhere, the outcome of this case presents a ‘realistic potential of harm’ to CCJ’s members, interests, and institutional mission.” (Petition to Intervene, para. 11.) Indeed, we need look no further than the other six well sites outlined in the Department’s Order, specifically within Washington and Greene Counties, where there was a release of brine to the environment. (Notice of Appeal Exhibit A, para. K.) There is nothing currently in the record before us to indicate that the problems experienced at the Brova Site and the other six well sites will not continue as time progresses, despite replacement of the dump line with a new pipe.

Finally, in *Lawson*, the Board noted that the would-be intervenor provided no information, and no supporting documents such as an affidavit, to verify its claims of interest. *Lawson*, 2017 EHB at 1043–44. The Appellants argue that because CCJ did not offer affidavits from specific members or identify specific members by name so that their interests could be verified, the situation is comparable to that in *Lawson*. CCJ’s petition to intervene may be distinguished from the petition to intervene filed in *Lawson*, however, as there was no supporting documentation whatsoever accompanying the petition in *Lawson*. Here, an affidavit verifying the facts and claims alleged in the petition was in fact provided. Under Rule 76 of the Pennsylvania Rules of Civil Procedure, an affidavit is defined as follows:

A statement in writing of a fact or facts signed by the person making it, that either (1) is sworn to or affirmed before an officer authorized by law to administer oaths, or before a particular officer or individual designated by law as one before whom it may be taken, and officially certified to in the case of an officer under seal of office, or (2) is unsworn and contains a statement that it is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

We are satisfied that the information provided in the affidavit has a sufficient level of trustworthiness to support the assertions made within.

“It is within the Board's discretion whether to grant or deny intervention in accordance with the standard of Section 4(e) of the Environmental Hearing Board Act.” *CRG Services Management LLC*, 2025 EHB at 497 (citing *Quigley v. DEP*, 2024 EHB 339, 345). Here, we exercise that discretion. For the reasons outlined above, the petition to intervene in this matter is granted. While CCJ indicated in its petition that it did not anticipate significant discovery or factual development in the matter, it should be noted that pursuant to this Board’s Order dated February 18, 2026, discovery is stayed in the matter until May 15, 2026. The petitioner's intervention will be limited to the parameters of the current appeal.



COMMONWEALTH OF PENNSYLVANIA  
ENVIRONMENTAL HEARING BOARD

EQT PRODUCTION COMPANY and RICE :  
DRILLING B LLC :  
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COMMONWEALTH OF PENNSYLVANIA, :  
DEPARTMENT OF ENVIRONMENTAL :  
PROTECTION :

**ORDER**

AND NOW, this 9<sup>th</sup> day of March, 2026, it is hereby ordered that the Petition to Intervene is **granted**. The petitioner's intervention will be limited to the parameters of the current appeal.

Henceforth, the caption shall read as follows:

EQT PRODUCTION COMPANY and RICE :  
DRILLING B LLC :  
v. : EHB Docket No. 2024-117-W  
COMMONWEALTH OF PENNSYLVANIA, :  
DEPARTMENT OF ENVIRONMENTAL :  
PROTECTION and CENTER FOR :  
COALFIELD JUSTICE, Intervenor :

**ENVIRONMENTAL HEARING BOARD**

s/ MaryAnne Wesdock  
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**MARYANNE WESDOCK**  
**Judge**

**DATED: March 9, 2026**

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