



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD



DONALD AND MICHELLE LOGAN

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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EHB Docket No. 2024-159-BP

Issued: September 10, 2025

**OPINION AND ORDER ON
THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S MOTION FOR
SANCTIONS IN THE FORM OF DISMISSAL**

By Paul J. Bruder, Jr., Judge

Synopsis

The Board grants the Department of Environmental Protection's Motion for Sanctions in the Form of Dismissal as Appellants have demonstrated a lack of intent to pursue their appeal. Appellants have failed to respond to discovery and have disregarded Board Rules of Practice and Procedure as well as a Rule to Show Cause. The appeal is dismissed.

OPINION

Background

On November 4, 2024, Donald and Michelle Logan ("Appellants") filed the instant appeal challenging the Department of Environmental Protection's ("the Department") October 4, 2024 denial of Appellants' Act 537 planning application for their proposed subdivision and construction of a single family home. (*See* Notice of Appeal, Objection #1). After Appellants filed their Notice of Appeal, the Board issued its standard Pre-Hearing Order No. 1 setting the discovery deadline to May 6, 2025.

On April 4, 2025, the Department served its First Set of Interrogatories, First Request for Production of Documents, and First Set of Requests for Admissions (“Department’s Discovery Requests”) on Appellants by First-Class Mail and email. The Appellants failed to respond to any of the Department’s Discovery Requests. Thereafter, the Department afforded the Appellants additional time to answer discovery, but again, the Appellants did not respond. On May 18, 2025, the Department filed a Motion to Compel. On May 28, 2025, the Board held a conference call to discuss the pending Motion to Compel. During the call, Judge Bruder explained to Appellants that they have a responsibility to respond to the Department’s Discovery Requests in a timely fashion. As a result of this conference, the Board issued a May 28, 2025 Order that stayed the proceedings until June 27, 2025 and set a new discovery deadline to July 16, 2025.

On or around June 12, 2025 and June 24, 2025, the Department and the Appellants met to discuss options for the property. According to the Department, at the end of the June 24, 2025 meeting, Mr. Logan represented that Appellants were not interested in pursuing their appeal. Subsequently, on July 10, 2025, the Department spoke to Mr. Logan to remind the Logans of the Board’s July 16, 2025 discovery deadline. The Department has represented that during the call, Mr. Logan again re-stated he and Mrs. Logan were not interested in pursuing their appeal.

After receiving no response to discovery, on August 13, 2025, the Department filed a Motion for Sanctions in the Form of Dismissal. According to Board Rules of Practice and Procedure, Appellants’ response to said Motion was due on August 28, 2025. 25 Pa. Code § 1021.93(c). No response was received by Appellants. On September 2, 2025, this Board issued a Rule to Show Cause on Appellants advising if they did not respond by September 9, 2025, the current appeal would be dismissed. No response was received.

Standard of Review

The Board has broad authority to impose sanctions, including the dismissal of an appeal, when a party fails to comply with the rules of discovery, follow Board Rules of Practice and Procedure, and/or comply with Board orders. 25 Pa. Code § 1021.161; *See Brumage v. DEP*, EHB Docket 2024-104-B, *slip. op.* 4-5 (Opinion and Order issued June 23, 2025) (granting DEP's Motion for Sanctions in the Form of Dismissal for Appellant's failure to answer discovery and comply with Board orders) *citing Pearson v. DEP*, 2009 EHB 628, 629-30 (dismissing appeal as a sanction where appellant failed to abide by Board orders, including an order to provide discovery responses to the Department); *Swistock, Jr. v. DEP*, 2006 EHB 398, 398-400 (dismissing appeal as a sanction where appellant failed to respond to discovery requests and abide by Board orders); *Kennedy v. DEP*, 2006 EHB 477, 479 (dismissing appeal as a sanction where appellant ignored his discovery obligations and failed to comply with Board order); *Recreation Realty, Inc. v. DEP*, 1999 EHB 697 (dismissing appeal as a sanction where appellant failed to respond to discovery requests and abide by Board orders). Additionally, dismissal as a sanction is warranted when a party clearly demonstrates a lack of intent to pursue its appeal. *See Wilkinson v. DEP*, 2024 EHB 401, 402 (dismissing an appeal as a sanction when Appellant has not responded to Board orders and ceased communication with the Board); *Blackwood v. DEP*, 2020 EHB 442, 444 (dismissing an appeal where a party failed to respond to Board orders and failed to attempt any communication with the Board); *Walker v. DEP*, 2011 EHB 328, 330 (dismissing an appeal as a sanction where a party failed to follow Board rules of practice and procedure and ignored Board orders); *K H Real Estate, LLC v. DEP*, 2010 EHB 151, 153 (granting the Department's Motion for Sanctions in the Form of Dismissal because Appellant had failed to comply with Board orders and shown a lack of intent to pursue its appeal).

Discussion

In the current matter, Appellants have clearly demonstrated a lack of intent to pursue their appeal. Specifically, Appellants have failed to respond to discovery after numerous reminders by the Department and Judge Bruder that they have a responsibility to respond to the Department's Discovery Requests, ignored the Board's May 28, 2025 Order setting a new discovery deadline, and failed to respond to the Board's September 2, 2025 Rule to Show Cause. Furthermore, the Logans have represented, more than once, to the Department that they have no intention of pursuing this appeal.

Accordingly, for the reasons stated above, we issue the following order.



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ORDER

AND NOW, this 10th day of September, 2025, it is hereby **ordered** that the Department of Environmental Protection's Motion for Sanctions in the Form of Dismissal is **granted**. The appeal is **dismissed**. The docket shall be marked as **closed**.

ENVIRONMENTAL HEARING BOARD

s/ Steven C. Beckman

STEVEN C. BECKMAN

Chief Judge and Chairperson

s/ Bernard A. Labuskes, Jr

BERNARD A. LABUSKES, JR.

Judge

s/ Sarah L. Clark

SARAH L. CLARK

Judge

s/ MaryAnne Wesdock

MARYANNE WESDOCK

Judge

s/ Paul J. Bruder, Jr.

PAUL J. BRUDER, JR.

Judge

DATED: September 10, 2025

c: DEP, General Law Division:

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(via *electronic mail*)

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