



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

MIFFLIN ENERGY RESOURCES LLC	:	
	:	
v.	:	EHB Docket No. 2026-007-W
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION	:	Issued: June 9, 2026
	:	

**OPINION AND ORDER ON
PETITION FOR RECONSIDERATION**

By MaryAnne Wesdock, Judge

Synopsis

A petition for reconsideration of a final order of the Board marking an appeal closed and discontinued following the parties’ termination of the appeal is denied where the requesting party has not presented compelling or persuasive reasons for reconsideration under our Rules of Practice and Procedure.

OPINION

Background

On January 30, 2026,¹ Mifflin Energy Resources LLC (Mifflin) filed a notice of appeal challenging an Order with Civil Penalty Assessment (Order) issued by the Department of Environmental Protection (Department) regarding 33 conventional oil or gas wells (wells) operated by Mifflin in Greene County, Pennsylvania. The Order alleged that Mifflin had failed to submit annual production, waste, and status reports (APRs), as well as annual mechanical integrity

¹ The notice of appeal was faxed to the Board on January 29, 2026 and docketed on January 30, 2026.

assessment reports (MIAs), for the wells since 2023. The Order directed Mifflin to submit all necessary reports for the wells and assessed a civil penalty of \$16,500.

On January 30, 2026, the Board issued Pre-Hearing Order No. 1 setting forth pre-hearing deadlines for the parties, with the first set of deadlines requiring the parties to confer about settlement within 45 days of the pre-hearing order and to file a Joint Statement certifying that they conferred about settlement within 60 days of the pre-hearing order, March 31, 2026. On March 17, 2026, the parties filed a Termination of Appeal containing electronic signatures of Mr. Robert T. Green Sr., Mifflin's principal, and counsel for the Department. Accordingly, the Board issued an Order Following Withdrawal later that day, providing that the docket should be marked as closed.

On April 2, 2026, Mr. Green contacted the Board asserting that he had not consented to the withdrawal of the appeal.² That same day, the Board held a conference call with the parties to discuss the assertions offered by Mr. Green. During that call, the presiding judge explained that a party who seeks reconsideration of a final order of the Board, including an order such as the one here, which was issued upon receipt of the parties' Termination of Appeal, must file a petition for reconsideration pursuant to the Board's Rules of Practice and Procedure at 25 Pa. Code § 1021.152. The presiding judge further explained that any such request for reconsideration must be in writing and filed with the Board. Mr. Green expressed his desire to file a request for reconsideration of the Board's Order Following Withdrawal, and the Department requested an opportunity to formally respond to the assertions made by Mr. Green during the call, as well as to any written filing made by Mr. Green. Accordingly, on April 2, 2026, the Board issued an Order Following Conference Call reopening the docket for those purposes.

² Mifflin is not represented by counsel in this matter. Under 25 Pa. Code § 1021.21, corporations are required to be represented by an attorney of record in proceedings before the Board. Because this case was withdrawn in the very early stages of the appeal, Mifflin had not yet retained legal counsel.

On April 6, 2026, Mr. Green contacted one of the Board’s assistant counsel indicating he was having difficulty putting his request in letter format and he asked if an email would be sufficient. The assistant counsel responded that an email would be accepted by the Board and on April 7, 2026, Mr. Green emailed the Board regarding his request, which was docketed at Docket Entry No. 8 (April 7, 2026 email request). The Board then issued an Order that same day providing that if the Department wished to respond, it should do so on or before April 17, 2026. The Department filed its response on April 15, 2026.

On April 27, 2026, the Board received an additional filing from Mr. Green which appeared to be related to the earlier April 7, 2026 email request. Although this document was submitted on the Board’s Notice of Appeal Form, it set forth reasons why Mr. Green believes the settlement between the parties should be withdrawn and the appeal reopened. Therefore, the Board docketed this filing as “Petition to Withdraw Settlement and Reopen Appeal.” (Docket Entry No. 12.) The Board issued an Order giving the Department until May 12, 2026 to file a response to the April 27, 2026 submission should it wish to do so, and on that date, the Department filed its response. Given the unique procedural posture of the matter, the Board is electing to treat the April 7, 2026 email request and the April 27, 2026 filing cumulatively as a Petition for Reconsideration of the Board’s Order Following Withdrawal (petition for reconsideration or petition).³

The Parties’ Positions

In the April 7, 2026 email requesting that the Termination of Appeal be withdrawn, Mr. Green contends that there was a misunderstanding as to the terms of the settlement between Mifflin and the Department. While Mr. Green acknowledges that he reached an agreement with the

³ This Board has previously elected to treat motions to withdraw a termination of an appeal as a petition for reconsideration. See *Citizens Alert Regarding the Environment v. DEP*, 2002 EHB 501.

Department for the settlement of the matter, he asserts that the Department “fell short” in complying with the terms of the agreement. The filing docketed on April 27, 2026 follows up on this assertion and states that Mifflin is “withdrawing the settlement and want[s] the Appeal reopened if the original terms are not met.”

Based on our review of the petition for reconsideration, we understand Mr. Green’s position to be as follows: In addition to the 33 wells that are subject to the Order, Mifflin also produces an additional six wells for which it is not registered as the operator. According to Mr. Green, those six wells have ongoing issues and are described as “leaking wells,” yet they still produce house gas for nearby residents. As such, Mr. Green wants the six additional wells to be transferred and registered to Mifflin as the operator. In the petition for reconsideration, Mr. Green alleges that the settlement agreement was supposed to address not only the 33 wells subject to the Order but also the six additional wells that Mifflin produces but for which it is not registered as the operator. Mr. Green’s April 7, 2026 email request provided:

I filed the missing paperwork with DEP [for the 33 wells]. DEP started the transfer of the 6 wells into my inventory. DEP did drop the civil penalties. What fell short was DEP dealing with other ongoing well issues. Leaking wells I don't own but wanted to adopt because they are producing house gas with no oversight [sic] for as long as 23 years and the gas recipients want the [wells] maintained.

(April 7, 2026 Email Request.)

It appears that Mr. Green’s contention is that the settlement covered the six wells not subject to the Order in addition to the 33 wells that are subject to the Order (for 39 wells in total), but the Department has not complied with the terms of the settlement as to the six wells. As such, Mr. Green is asking the Board to order the settlement withdrawn and the appeal reopened.

In its responses, the Department explains its understanding of the settlement that occurred between the parties prior to withdrawal of the appeal. On February 13, 2026, Department counsel

emailed Mr. Green and outlined its position on settlement, noting that if Mr. Green submitted the APRs and MIAs for the 33 wells subject to the Order, the Department would “close out” the Order and waive the collection of civil penalties. (Department Response to Email Request, Exhibit 2.) With respect to the six wells that were not subject to the Order, the Department indicated that if identifying information on the wells were transmitted to the Department, the Department “would be in a position to respond as to whether Mifflin is the operator of those wells or not. If Mifflin is not the operator, Mifflin would not, as you noted, be able to enter production information in into [sic] DEP’s electronic systems regarding those wells.” (*Id.*)

On March 6, 2026, Mr. Green emailed the Department and asked if the “DEP is going to drop the civil penalties and fix the system so [he would be] able to report all 39 wells.” (Department Response to Email Request, Exhibit 1.) On March 9, 2026, prior to receiving a response from the Department to the email referencing the 39 wells, Mr. Green emailed the Department again and asked: “Is the DEP willing to drop the civil penalties if I file the paperwork on the 33 wells I am sited [sic] for?” (Department Response to Email Request, Exhibit 4.) The Department responded on that same day that if Mr. Green were to “submit MIAs and APRs for the 33 wells as set forth in the order, DEP will waive the civil penalties to resolve the order.” (*Id.*) The Department’s response also provided that if the reports were submitted for the 33 wells, Department counsel would coordinate with Mr. Green as to ending the EHB appeal. (*Id.*) In further communications on that same day, with respect to the six wells not subject to the Order, which Mifflin now claims should have been a part of the settlement, Mr. Green acknowledged: “It will be in a separate matter as you suggested.” (*Id.*)

On March 16, 2026, Mifflin submitted the MIAs and APRs for the 33 wells. The Department then emailed a letter to Mr. Green to inform him that it “considers Mifflin to have

satisfied the corrective actions outlined in the Order” and that “upon Mifflin’s withdrawal of its Environmental Hearing Board appeal of the Order” the Department would waive the civil penalties set forth in the Order. (Department Response to Email Request, Exhibit 5.) On March 17, 2026, the Department emailed Mr. Green a Termination of Appeal document and offered to sign on his behalf or, alternatively, request that he sign the document himself. (Department Response to Email Request, Exhibit 6.) Mr. Green responded: “Please sign the withdrawal for me.” (Department Response to Email Request, Exhibit 7.) That same day, the Department filed the Termination of Appeal with the Board, and the Board issued an Order terminating the appeal, titled “Order Following Withdrawal.”

According to the Department, a little more than two weeks later, on March 30, 2026, it held a meeting with Mr. Green “to address the ramifications of data in Mifflin’s recent APR submissions.” (Department’s Response of May 12, 2026, para. N.) Three days after that meeting, on April 2, 2026, Mr. Green contacted the Board by phone, stating that he had not consented to the withdrawal of the appeal.

Discussion

The Department urges the Board to deny the petition for reconsideration on the grounds that it is untimely, fails to set forth compelling and persuasive reasons for reconsidering the Board’s Order, and seeks action by the Board which is not within the Board’s scope of authority. We address each of these arguments below.

Timeliness

Pursuant to 25 Pa. Code § 1021.152(a), a “petition for reconsideration of a final order shall be filed within 10 days of the date of the final order.” The Order Following Withdrawal in this case was issued on March 17, 2026. Mr. Green contacted the Board on April 2, 2026, at which

time the Board held a conference call in which Mr. Green requested that the Board reopen the appeal. He did not file a written request for the Board to reconsider the Order Following Withdrawal until April 7, 2026 (via email). Even if we were to consider his verbal request during the April 2, 2026 conference call as a formal request for reconsideration, it was made more than 10 days after the Board’s Order Following Withdrawal was issued. As such, the petition is untimely and may be dismissed on that basis alone. However, even if we consider the merits of the petition, we find that it does not set forth compelling and persuasive reasons for reversing the Board’s Order Following Withdrawal, as explained below.

Compelling and Persuasive Reasons

The Board’s Rules of Practice and Procedure set forth the requirements for filing a petition for reconsideration of a final order. Reconsideration of final orders “is within the discretion of the Board and will be granted only for compelling and persuasive reasons.” 25 Pa. Code § 1021.152(a).

Those reasons may include:

- (1) The final order rests on a legal ground or a factual finding which has not been proposed by any party.
- (2) The crucial facts set forth in the petition:
 - (i) Are inconsistent with the findings of the Board.
 - (ii) Are such as would justify a reversal of the Board’s decision.
 - (iii) Could not have been presented earlier to the Board with the exercise of due diligence.⁴

Id. See also *Pileggi v. DEP*, EHB Docket No. 2022-068-BP, slip op. at 4 (Opinion and Order on Petition for Reconsideration issued Apr. 30, 2026); *Probst v. DEP*, EHB Docket No. 2025-114-L, slip op. at 2 (Opinion and Order on Petition for Reconsideration issued Apr. 29, 2026). The

⁴ An argument may be made that these factors apply when the Board has issued a decision in a disputed matter and not where the parties have reached a settlement which resolves the appeal. See *Westtown v. DER*, 1992 EHB 1697, 1700. However, even where a party seeks reconsideration in a matter that has been resolved by a settlement, the Board has held that the moving party must nonetheless present a compelling and persuasive reason for overturning the Board’s order. *Id.*

Department argues that Mifflin has failed to address the criteria for granting a petition for reconsideration under Rule 1021.152 and, instead, simply argues that there was a misunderstanding as to the terms of the settlement.

Mr. Green appears to argue that the Board should rescind the order terminating the appeal because he disagrees with the Department over the terms of the settlement agreement. It is Mr. Green's position that the settlement agreement covered the 33 wells subject to the Department's Order, as well as the six additional wells not covered by the Order, and that the Department has failed to comply with the agreed terms for the six additional wells. However, we find that the facts do not support Mr. Green's assertion that the six wells not subject to the Department's Order were part of the settlement agreement.

The terms of the settlement appear to be clear, with Mr. Green voluntarily agreeing to the withdrawal of the appeal. While we understand there may have been some confusion regarding the six wells that are not the subject of the Department's Order given the many communications between the parties, we believe that Mr. Green's acknowledgment on March 9, 2026 that the six wells would be handled "in a separate matter" makes it clear that they were not a part of the settlement of this appeal. Mr. Green voluntarily consented to the signing of the Termination of Appeal and received a copy of the document prior to authorizing the Department to affix an electronic signature to the document on his behalf. Accordingly, Mifflin has failed to present a compelling or persuasive reason for us to reconsider the Order Following Withdrawal.

Board's Authority

Moreover, the Department asserts that, even if Mr. Green has a different interpretation of the settlement agreement than that of the Department, the Board does not have the authority under the Environmental Hearing Board Act to overturn the settlement agreement entered into between

the parties. The Department directs our attention to *Westtown Sewer Co. v. DER*, 1992 EHB 1697. In that case, the parties executed a consent adjudication settling the appeal, which the Board approved by order.⁵ After the Board approved the consent adjudication, the appellant, Westtown, filed a motion for reconsideration, seeking to have the consent adjudication declared null and void on the grounds that there was a disagreement over its interpretation. The Board denied the motion, holding that disputes over a settlement agreement are beyond the Board’s powers to adjudicate. The Board noted that where the parties to an appeal have executed a settlement document which leads to the termination of the appeal, “it [is] a ‘done deal’ at that instant.” *Id.* at 1701.

Our case law is clear that the Board does not have the authority to enforce the terms of a settlement agreement voluntarily entered into by the parties. *See Empire Sanitary Landfill, LLC v. DER*, 1990 EHB 1270. In that case, Empire and the Department advised the Board that a settlement had been reached, which the parties intended to submit to the Board. Thereafter, cooperation between the parties deteriorated and they “eventually disagreed over the nature and import of the terms of the proposed settlement agreement.” *Id.* at 1271. Empire made an oral motion to enforce the settlement agreement, which was later filed as a written motion. *Id.* at 1272. The Board denied the motion, holding that “[t]here are no provisions in [the Environmental Hearing Board Act] empowering the Board to enforce settlement agreements.” *Id.* at 1275–76. As the Board explained in *Westtown*, “The courts do have this power, have expertise in this field and deal with such ‘enforcement’ regularly.” *Westtown*, 1992 EHB at 1701.

⁵ Under 25 Pa. Code § 1021.141, a proceeding before the Board may be terminated by withdrawal of the appeal, settlement agreement, or consent adjudication. Where the parties elect to terminate an appeal pursuant to a consent adjudication, the Board must approve the consent adjudication. There is no requirement for the Board to approve a withdrawal of the appeal or a settlement agreement.

Accordingly, even if there is a dispute between Mifflin and the Department over whether the settlement agreement addresses the six additional wells, the Board does not have the authority to adjudicate that dispute.

While the Board is sympathetic to Mr. Green's position and understands that its Rules of Practice and Procedure may be difficult to navigate, Mr. Green chose to proceed without the benefit of counsel throughout every stage of this proceeding. As the Department noted in its filings, Mifflin failed to secure legal counsel prior to the appeal being withdrawn and has not secured legal counsel to date. "The Board does its best to grant leniency to pro se appellants," who are often "trying to navigate a complex procedural minefield, while understanding that they are nonetheless subject to the same rules of practice and procedure as those that do have legal counsel." *Pruden v. DEP*, 2025 EHB 360, 365 (citing *354 Broadway, LLC v. DEP*, 2025 EHB 154, 166 (Clark, J., concurring)). However, as this Board has repeatedly held, parties proceeding pro se do so at their own risk and are held to the same standard as any other party in a matter before the Board. *DEP v. Columbo*, 2013 EHB 635, 643 n. 1; *McGinnis v. DEP*, 2012 EHB 109, 123; *Matusinski v. DEP*, 2008 EHB 489, 496; *Eagle Res. Corp. v. DEP*, 2003 EHB 597, 599. While this Board has exercised its discretion in granting leniency to Mr. Green and Mifflin throughout this appeal, an alleged misunderstanding of the process and potential repercussions of settlement and withdrawal of the appeal cannot justify reconsideration here.

For the foregoing reasons, Mifflin's petition for reconsideration of the Board's March 17, 2026 Order Following Withdrawal is **denied**.



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

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 COMMONWEALTH OF PENNSYLVANIA, :
 DEPARTMENT OF ENVIRONMENTAL :
 PROTECTION :
 :

ORDER

AND NOW, this 9th day of June, 2026, it is hereby ORDERED that the Appellant’s Petition for Reconsideration of the Board’s Order Following Withdrawal is **denied**. The docket shall be marked **closed** and discontinued.

ENVIRONMENTAL HEARING BOARD

s/ MaryAnne Wesdock
MARYANNE WESDOCK
Judge

DATED: June 9, 2026

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