

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

JOHN S. PETTENGILL,

Appellant,

v.

Appeal No. 08-10-EQB

**DIRECTOR, DIVISION OF WATER AND
WASTE MANAGEMENT, WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,**

Appellee.

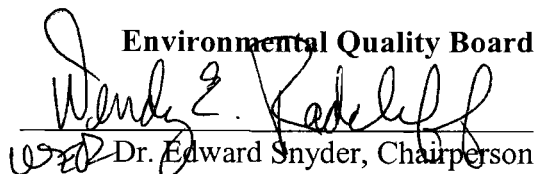
ORDER GRANTING MOTION TO DISMISS

Appeal No. 08-10-EQB was filed with the West Virginia Environmental Quality Board ("Board") on April 22, 2008. On August 4, 2008 the WVDEP filed a Motion to Dismiss Appeal number 08-10-EQB for lack of jurisdiction. The Appellant filed a response to the Motion on August 20, 2008.

The Board finds that Appellant's appeal is premature. The actions challenged in the appeal concern actions and decisions of agencies outside the WVDEP's authority or the complaints consist of challenges to future actions by the WVDEP. If the Appellant had concerns with the Administrative Order issued by the WVDEP the time to file that appeal has long passed. However, after the WVDEP receives the City of Richwood's Combined Sewer Overflow Long Term Control Plan, the WVDEP will go to public comment and notice and the Appellant will again have an opportunity to file objections or concerns at that time. Presently there has been no final agency action, or other official actions by the Department which would give this Board jurisdiction to hear an appeal.

Finding it necessary and proper to do so, the Board does hereby DISMISS Appeal No. 08-10-EQB from its docket. There will be no evidentiary hearing on this matter.

ORDERED and ENTERED this 14th day of September, 2008.

Environmental Quality Board


Dr. Edward Snyder, Chairperson

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

JOHN S. PETTENGILL,

Appellant,

v.

Appeal No. 08-10-EQB

DIRECTOR, DIVISION OF WATER AND
WASTE MANAGEMENT, WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Appellee.

CERTIFICATE OF SERVICE

This is to certify that I, Jackie D. Shultz, Clerk for the Environmental Quality Board, have this day, the 4th day of September, 2008, served a true copy of the foregoing "**Order Granting Motion to Dismiss**" to all parties in Appeal No. 08-10-EQB, by mailing the same via United States Mail, with sufficient postage, to the following address:

via certified first-class mail:

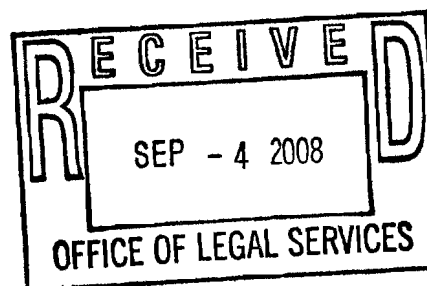
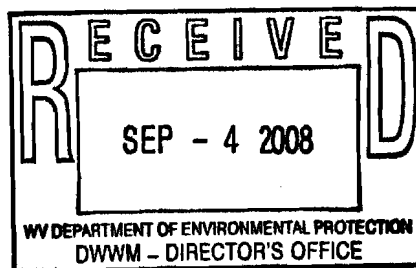
John S. Pettengill
42 W. Walnut Street
Ravenswood, WV 26261

Certified Mail # 7160 6690 2530 0000 8593

via personal service:

Lisa A. McClung, Director
Division of Water and Waste Management
WV Department of Environmental Protection
601 57th Street, S.E.
Charleston WV 25304

Laura Swingle, Esquire
Office of Legal Services
WV Department of Environmental Protection
601 57th Street, S.E.
Charleston WV 25304



Jackie D. Shultz
Jackie D. Shultz, Clerk