

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

**SNOWSHOE MOUNTAIN, INC.,**

**Appellant,**

v.

**Appeal No. 07-18-EQB**

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

**Appellee.**

**ORDER SETTLING AND DISMISSING  
ALL REMAINING CLAIMS OF THE APPEAL**

The Appellant's appeal challenged three permit conditions. By prior order entered by this Board on October 7, 2007, the parties resolved one of the three appeal issues. By this Order, the parties hereby agree, and the Board does hereby ORDER, as follows with respect to all remaining issues in this case:

1. The requirement in Paragraph 27 of Section C of "Other Requirements" in WV/NPDES Permit No. WV0023311 requiring the permittees to "cease the use of polyaluminum chloride" as a means of treatment at the settling pond effluent prior to the filters is hereby modified to provide that:

The permittee shall be required to cease the use of polyaluminum chloride as a means of chemical treatment at the settling pond effluent prior to the filters unless, within twelve (12) months of entry of this order, the permittee can demonstrate that it will be able to meet effluent limitations for aluminum.

2. Appellant withdraws its appeal of the fencing requirement in Paragraph 2 of Section C with the understanding that the determination of the extent of any required fencing shall reside with the Department of Health.

3. This appeal is dismissed with prejudice in accordance with the orders issued herein. All parties shall bear their own fees and expenses.

ENTERED this 17 day of January, 2008.

Wendy G. Radcliff for Dr. Edward Snyder  
ENVIRONMENTAL QUALITY BOARD *Snyder*  
*Chairman*

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APPELLEE.

CERTIFICATE OF SERVICE

This is to certify that I, Jackie D. Shultz, Clerk for the Environmental Quality Board, have this day, the 18<sup>th</sup> day of January, 2008, served a true copy of the foregoing "**Order Settling and Dismissing All Remaining Claims of the Appeal**" to all parties in Appeal No. 07-18-EQB, by mailing the same via United States Mail, with sufficient postage, to the following address:

*via U.S. first-class certified mail:*

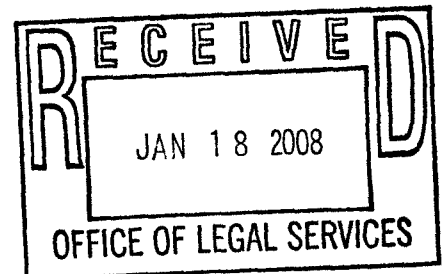
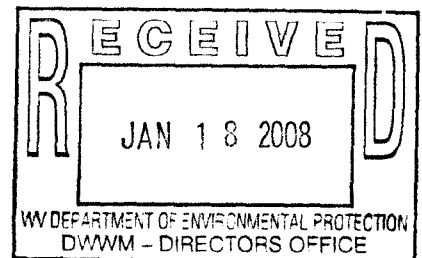
Robert McLusky, Esquire  
Jackson Kelly, PLLC  
P.O. Box 553  
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Certified Mail # 7160 6690 2530 0000 7299

*via personal service:*

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*Jackie D. Shultz*  
Jackie D. Shultz, Clerk