

ENVIRONMENTAL QUALITY BOARD

**BRADLEY KEENAN, NATURAL RESOURCES
DEFENSE COUNCIL, WV SURFACE OWNERS'
RIGHTS ORGANIZATION, AND PLATEAU
ACTION NETWORK,**

Appellants,

v.

Appeal No. 14-04-EQB

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

Appellee.

ORDER DENYING MOTION FOR SITE VISIT

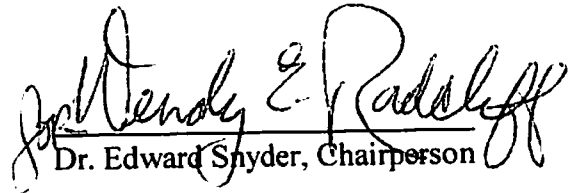
Appeal No. 14-04-EQB was filed with the West Virginia Environmental Quality Board ("Board") on March 17, 2014. Pending before the Board is Bradley Keenan, Natural Resources Defense Council, WV Surface Owners' Rights Organization, and Plateau Action Network ("Appellants") Motion for Site Visit and Testing. Appellants argue that a site visit is necessary to allow the Board to understand the scope of activities occurring on the site. The Division of Water and Waste Management ("WVDEP" and/or "Appellee") opposed the Motion for Site Visit citing safety concerns. After consideration of the arguments the Board DENIES the Motion for Site Visit at this time, not because of safety concerns, but because it does not see the necessity of visiting the site prior to the scheduled hearing. If at the conclusion of the hearing the Board still has questions about the site, then it may leave the record open and schedule a site visit at a later date.

Second, the Appellants seek an order from the Board allowing their expert witness to sample water at the site once per month, for each month leading up to the hearing for a total of three visits by the Appellants expert. The DEP opposed the Motion and noted that new testing by the Appellants

does not alter the decision of the WVDEP to enter the Administrative Order that is in question and said data is part of the record provided as part of the certified record. Also, Appellee opposes additional testing because the Order already requires testing and protocol samples to be gathered. The Board DENIES the Motion for additional testing based upon the arguments made by Appellee. However, the Board encourages the parties to work together to share information and data that will allow for adequate preparation for hearing on June 12, 2014.

It is so **ORDERED** and **ENTERED** this 16th day of May, 2014.

Environmental Quality Board


Dr. Edward Snyder, Chairperson

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CERTIFICATE OF SERVICE

This is to certify that I, Jackie D. Shultz, Clerk for the Environmental Quality Board, have this day, the 16th day of May, 2014, served a true copy of the foregoing **Order Denying Motion For Site Visit** in Appeal No. 14-04-EQB, by mailing the same via United States Mail, with sufficient postage, to the following address:

via certified first-class mail:

Thomas A. Rist, Esquire
Rist Law Offices, LC
103 Fayette Avenue
Fayetteville, WV 25840

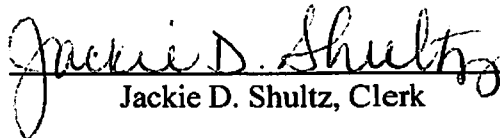
Certified Mail #

91 7199 9991 7033 2820 9642

via personal service:

Scott G. Mandirola, Director
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Jackie D. Shultz, Clerk