



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

ROBERT WILKINSON
d/b/a WILKINSON CONTRACTING

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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EHB Docket No. 2024-058-BP

Issued: May 17, 2024

**OPINION AND ORDER ON
FAILURE TO PERFECT APPEAL**

By Paul J. Bruder, Jr., Judge

Synopsis

The Board dismisses an appeal as a sanction pursuant to 25 Pa. Code § 1021.161 where the Appellant has not responded to Board Orders to perfect the appeal.

OPINION

Background

This matter concerns a *pro se* appeal filed by Robert Wilkinson d/b/a Wilkinson Contracting (“Wilkinson”) contesting a Compliance Order of the Department of Environmental Protection (“Department”) issued January 25, 2024. This appeal was docketed on February 26, 2024, and while it included a partial copy of the Department’s action being appealed, on February 27, 2024 and pursuant to 25 Pa. Code §§ 1021.51(d) and 1021.51(f)(2)(vi)(A)-(B), this Board issued an Order to Perfect requiring that Wilkinson file the Department’s action being appealed in full as well as proof of service upon the Department’s Office of Chief Counsel and the Department officer who took the action being appealed by March 18, 2024.

When Wilkinson did not file the required information by that date, the Board issued a Rule to Show Cause requiring compliance with the Order to Perfect by April 3, 2024. When that Rule went unanswered, Board staff attempted to contact Wilkinson by phone – no email address was included in the Notice of Appeal – and finally spoke to Wilkinson on April 12, 2024. Board staff explained Wilkinson’s responsibility to respond to Orders of this Board, obtained Wilkinson’s email address, and sent an email explaining the same that included links to all prior Orders as well as the Docket Sheet for this matter and our Citizens Guide to Practice Before the Environmental Hearing Board. Wilkinson assured Board staff that the required information would be filed by Friday, April 19, 2024. Nothing was filed by that date, and the Board issued an Order to Comply with Order to Perfect on April 26, 2024 with a final deadline of May 8, 2024 to perfect the appeal. There have been no further filings or communications of any kind from Wilkinson to the Board.

Discussion

This Board may impose sanctions – including dismissal of the appeal – for failure to comply with our orders. 25 Pa. Code § 1021.161; *Martin v. DEP*, 1997 EHB 158. Dismissal is warranted where the Appellant clearly demonstrates a lack of intent to pursue the appeal by failing to comply with Board orders. *Blackwood v. DEP*, 2020 EHB 442; *Scottie Walker v. DEP*, 2011 EHB 328; *K H Real Estate, LLC v. DEP*, 2010 EHB 151; *Pearson v. DEP*, 2009 EHB 628; (citing *Bishop v. DEP*, 2009 EHB 260; *Miles v. DEP*, 2009 EHB 179; *RJ Rhodes Transit, Inc. v. DEP*, 2007 EHB 260; *Swistock v. DEP*, 2006 EHB 396; *Sri Venkateswara Temple v. DEP*, 2005 EHB 54).

While Wilkinson initially appeared interested in pursuing this appeal, our Orders have not been complied with and Wilkinson’s communications to Board staff have ceased, and the appeal



remains unperfected three months after it was filed, demonstrating a lack of intent to pursue the matter.

Accordingly, we issue the following order.



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ORDER

AND NOW, this 17th day of May, 2024, following Appellant’s failure to comply with Board orders, and pursuant to 25 Pa. Code § 1021.161, it is hereby **ordered** that the appeal in the above-referenced matter is terminated. The docket will be marked as **closed**.

ENVIRONMENTAL HEARING BOARD

s/ Steven Beckman
STEVEN 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: May 17, 2024



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