



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

MIRANDA LANANGER, *et al.*, and EMMA
WRIGHT, *et al.*, Intervenor

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND CATALYST ENERGY
LLC, PERMITTEE

: EHB Docket No. 2024-016-B
: Consolidated with: 2024-017-B, 2024-
: 018-B, 2024-019-B, 2024-020-B, 2024-
: 021-B, 2024-026-B, 2024-027-B, 2024-
: 028-B, 2024-029-B, 2024-030-B, 2024-
: 031-B, 2024-032-B, 2024-033-B, 2024-
: 034-B, 2024-035-B, 2024-036-B, 2024-
: 037-B, 2024-038-B, 2024-041-B, 2024-
: 042-B, 2024-043-B, 2024-044-B, 2024-
: 045-B, 2024-046-B, 2024-047-B, 2024-
: 048-B, 2024-049-B, 2024-050-B, 2024-
: 051-B, 2024-052-B, 2024-053-B, 2024-
: 054-B, 2024-055-B, 2024-056-B, 2024-
: 057-B

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: Issued: March 17, 2025

**OPINION AND ORDER ON
APPELLANTS’ AND INTERVENORS’ MOTION TO REOPEN DISCOVERY AND
EXTEND PRE-HEARING DEADLINES**

By Steven C. Beckman, Chief Judge and Chairperson

Synopsis

We deny the appellants’ and intervenors’ motion to reopen discovery where they failed to show good cause to do so. The issues they seek to explore have been adequately explained and answered by the Department and Permittee in their responses. A multi-day supersedeas hearing was held in this matter wherein appellants and intervenors had ample opportunity to question multiple witnesses about the topics they assert justify re-opening discovery. It is unlikely that the reopening of discovery will lead to additional relevant information.

OPINION

On February 12, 2025, Appellants and Intervenor (collectively “Ms. Lananger”) filed a motion entitled “Appellants’ and Intervenor’s Motion to Reopen Discovery and Extend Pre-



Hearing Deadlines” (“Motion”). The case is an appeal of the Department of Environmental Protection’s (Department’s) issuance of a change of use permit at Permit Number 37-083-46237-00-01 (“Permit”) to Catalyst Energy, Inc. (“Catalyst”)¹. After Catalyst obtained an EPA Class II-D brine disposal injection well permit (“EPA Permit”), a condition required by the Department’s Permit, the Department authorized Catalyst to convert its Lot 580-1 well, a conventional oil and gas well, into an injection well (“Injection Well” or “Well”). The Notice of Appeal was filed in mid-February 2024. The Board issued its standard Pre-Hearing Order No. 1, setting August 13, 2024 as the deadline to complete discovery. In response to joint requests from the parties, discovery was extended multiple times. General discovery closed on October 11, 2024 and all discovery closed on October 18, 2024. On October 28, 2024, Ms. Lananger filed an expedited motion to reopen discovery and extend pre-hearing deadlines. On the same day that the Department and Catalyst filed their responses to the expedited motion, Ms. Lananger filed an application for a temporary supersedeas and petition for supersedeas.

On November 12, 2024, the Board granted a temporary supersedeas, preventing Catalyst from disposing fluids produced in association with oil and gas production into the Injection Well and scheduled a hearing on the petition for supersedeas. On November 21, 2024, as part of the process leading up to the supersedeas hearing, the Board denied Ms. Lananger’s expedited motion to reopen discovery. The supersedeas hearing was held over five days in December 2024 and included testimony from seventeen witnesses. On December 27, 2024, the Board issued an order denying Ms. Lananger’s petition for supersedeas and lifted the temporary supersedeas. On January 17, 2025, the Board issued its Opinion Supporting Order Denying Appellants’ and Intervenors’

¹ For a more detailed background and discussion on the case, see the Board’s Opinion Supporting Order Denying Appellants’ and Intervenors’ Petition for Supersedeas filed on January 17, 2025.

Petition for Supersedeas (“Supersedeas Opinion”). After issuing the Supersedeas Opinion, the Board held a conference call with the parties’ counsel on January 31, 2025 to discuss how to proceed in the case. Following the conference call, the Board issued an order setting April 4, 2025 as the deadline for the parties to file dispositive motions.

Ms. Lananger’s Motion was filed on February 12th and Catalyst and the Department filed their responses on February 21, 2025. Ms. Lananger filed a Motion for Surreply (“Surreply Motion”) on February 26, 2025 and the Department and Catalyst timely filed their respective responses. On February March 4, 2025, the Board granted the Surreply Motion. This Opinion and Order address the Motion and the Surreply Motion.

Ms. Lananger argues that recent inspections and activity concerning the Injection Well’s operations warrant a limited period for the reopening of discovery and extending the deadline to file dispositive motions. Based on those assertions, Ms. Lananger seeks to:

[...] explore what the Department and [Catalyst] knew about the failure of the Well, what led to the testing of water levels in the monitoring well, the failure of mechanical integrity testing, whether the Department and [Catalyst] are aware of or suspect contamination of private and public water supplies, whether the Department and [Catalyst] are aware of or suspect pollution of the surrounding waters of the Commonwealth, and other related topics.

(Ms. Lananger’s Motion at 6, ¶ 36). In addition to the above information, Ms. Lananger also seeks discovery pertaining to her previous request to reopen discovery that the Board denied in late October 2024. That request sought to explore communication and documents related to the EPA and the Pithole Water Association and to depose designees of the Department and Catalyst. Ms. Lananger contends that she will be prejudiced if she is not able to obtain this information, “particularly given the seriousness and gravity of the failure of the Well’s mechanical integrity during injection. *Id.*

The Department and Catalyst oppose the reopening of discovery. Both argue that discovery, while initially extended, has been closed for months, that no failure in mechanical integrity occurred, the information Ms. Lananger seeks is not relevant to the questions of this case, and that a comprehensive post-discovery supersedeas hearing has already occurred. They also contend that the basis of the Motion is predicated on falsehoods regarding the Injection Well's mechanical integrity and on unsupported assertions of potential water supply contamination. Catalyst argues that the discovery Ms. Lananger wishes to obtain concerns Catalyst's current day-to-day operations and that such discovery is far removed from the Department's decision to issue the Permit that merely authorized the conversion of the oil and gas well into the Injection Well. After reviewing the parties' arguments, we hold that Ms. Lananger has not convinced the Board that we should grant her Motion and reopen discovery.

When assessing a motion to reopen discovery we typically look at the justification provided by the moving party and whether there is a demonstration of good cause for further discovery. *M.C. Resource Development Company v. DEP*, 2017 EHB 330, 333; *Kiskadden v. DEP*, 2013 EHB 154; *Energy Res. Inc. v. DEP*, 2006 EHB 431; *Shenango Inc. v. DEP*, 2005 EHB 941. The Board is responsible for effectively monitoring and managing the discovery process. *Protect PT v. DEP*, 2020 EHB 326, 332, citing *Kiskadden v. DEP*, 2013 EHB 21, 23. Discovery before the Board is governed by the relevant Pennsylvania Rules of Civil Procedure. 25 Pa. Code § 1021.102(a); *Protect PT v. DEP*, 2020 at 333; *New Hope Crushed Stone & Lime Co. v. DEP*, 2016 EHB 666, 683. Generally, a party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action and appears reasonably calculated to lead to the discovery of admissible evidence. Pa.R.C.P. No. 4003.1. Discovery regarding a matter should be permitted when it appears to be reasonably calculated to lead to information that



is relevant to the subject matter involved in the appeal. *Protect PT v. DEP*, 2020 at 333; *New Hope Crushed Stone & Lime Co. v. DEP*, 2016 EHB 666, 683.

Ms. Lananger has failed to show good cause for reopening discovery on any of the topics she raised. We have extended discovery several times in this matter and discovery has now been closed since October 2024. Ms. Lananger's counsel had the benefit of questioning numerous Department and Catalyst witnesses under oath on a variety of issues, including the design and integrity of the well, testing, casings, gas migration and potential environmental issues, all of which she cites in her Motion to justify reopening discovery. Issues that have arisen since operations began, in of themselves, do not warrant reopening discovery, especially when there is apparently ample information readily available through public records regarding ongoing operations, including the specifics as to what took place between January 22nd and February 6, 2025. Furthermore, we find that the details the Department and Catalyst provide in their responses to the Motion surrounding recent events is exactly the type of information that Ms. Lananger would receive through discovery. It is unlikely that reopening discovery at this point will yield any additional relevant information beyond the public records and information that she is currently receiving from the government agencies overseeing the Injection Well. If this case proceeds to a full hearing, Ms. Lananger's counsel will be able to question Department and Catalyst personnel about the operations at the Injection Well so long as she can demonstrate the relevance of the information to the Department's permitting decision that is the basis of the appeal. Therefore, we issue the following order:



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

<p>MIRANDA LANANGER, et al., and EMMA WRIGHT, et al., Intervenors</p> <p style="text-align: center;">v.</p> <p>COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION AND CATALYST ENERGY LLC, PERMITTEE</p>	<p>: EHB Docket No. 2024-016-B : Consolidated with: 2024-017-B, 2024- 018-B, 2024-019-B, 2024-020-B, 2024- 021-B, 2024-026-B, 2024-027-B, 2024- 028-B, 2024-029-B, 2024-030-B, 2024- 031-B, 2024-032-B, 2024-033-B, 2024- 034-B, 2024-035-B, 2024-036-B, 2024- 037-B, 2024-038-B, 2024-041-B, 2024- 042-B, 2024-043-B, 2024-044-B, 2024- 045-B, 2024-046-B, 2024-047-B, 2024- 048-B, 2024-049-B, 2024-050-B, 2024- 051-B, 2024-052-B, 2024-053-B, 2024- 054-B, 2024-055-B, 2024-056-B, 2024- 057-B</p>
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ORDER

AND NOW, this 17th day of March, following review of Ms. Lananger’s Motion to Reopen Discovery and Extend Pre-Hearing deadlines and her Motion for Leave to File Surreply and, the Department’s and Catalyst’s responses thereto, it is hereby ORDERED that the Motion is **denied**.

ENVIRONMENTAL HEARING BOARD

s/ Steven C. Beckman
STEVEN C. BECKMAN
Chief Judge and Chairperson

DATED: March 17, 2025

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