

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

David Tabb,

Appellant,

v. Harold Ward,
Deputy Secretary for Operations, Division of
Water and Waste Management
DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Appeal No. 19-08 EQB

Jefferson County Development Authority,

TeMa USA, LLC.,

Appellee.

**MOTION TO DENY JEFFERSON COUNTY DEVELOPMENT AUTHORITY'S
MOTION TO INTERVENE**

Now comes Appellant and Motions the West Virginia Environmental Quality Board (hereafter EQB) to deny the Jefferson County Development Authority's (hereafter JCDA) Motion to Intervene.

The JCDA was serviced notice with a certificate of service on 29th day of April 2019. There is no reason the JCDA to intervene when they were notified at the time of filing. JCDA has failed to file any objections to Mr. Tabb's filing. **§52-1-2. Notice of Appeal; Answer** 2.3. Answer. *"...If an answer is filed, it shall be filed within twenty-one (21) days from receipt of the notice of appeal."* The clerk, Mrs. Shultz, sent a certified letter of these proceedings on 1st of May 2019 to JCDA (tracking# 91 7199 9991 7038 7218 7075). **§52-1-5. Orders of the Board; Submission of Motions.** 5.4. Form. *"... The proponent shall serve the motion on the board and on all other parties to the appeal as required by these rules of procedure. Unless the board determines otherwise, a party shall have ten (10) days from receipt of the motion to respond to the same."*

Furthermore, the JCDA failed to file any objections within twenty-one (21) days. On 23rd of July 2019 at 1:22 p.m., less than two (2) days before the 25th of July 2019, 10:00 a.m. hearing, Mr. Rohrbaugh, council for the JCDA, filed motion to intervene, with no objections to the appeal, within his motion.

The Appellant, David Tabb, can assure everyone that the EQB would have dismissed and/or denied Mr. Tabb of his request if the Appellant had not performed accordingly to the EQB Rule and/or proceeding.

Therefore, the Appellant, David Tabb, of this properly filed appeal, strongly objects to any intervention of the JCDA to these proceedings as "out of time" and/or failed to object to any of the Appellant filings.

A handwritten signature in blue ink, appearing to read 'David Tabb', is written over a faint, illegible stamp or watermark.

David Tabb

CERTIFICATE OF SERVICE

I, David C. Tabb, do hereby certify that I, on this 24th day of July, 2019 served the attached *Motion to Deny Jefferson County Development Authority's Motion to Intervene* to all parties in Appeal no. 19-08EQB as follows:

By United States Mail, postage prepaid:

Jackie Shultz, Clerk, Original and 6 copies
Environmental Quality Board
601 57th Street, SE
Charleston, WV 25304

First Class Mail

Jason Wandling and distributed parties
WVDEP – Office of Legal Services
601 57th Street, SE
Charleston, WV 25304

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Harold Ward, Deputy Secretary for Operations
DEP, Water and Waste Management
601 57th Street, SE
Charleston, WV 25304

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Jefferson County Development Authority
1948 Wiltshire Road, Suite 4
Kearneysville, WV 25430

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TeMa USA, LLC
Jefferson County Facility
395 Steeley Way
Kearneysville, WV 25430

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David C. Tabb

cc:
EPA – Region III
1650 Arch St
Philadelphia, PA 19103

Via – Email
Vyas.himanshu@epa.gov