

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

**DAVID TABB,**

**Appellant,**

**v.**

**Appeal No. 19-08-EQB**

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

**Appellee,**

**and**

**JEFFERSON COUNTY DEVELOPMENT  
AUTHORITY,**

**Intervenor/Appellee.**

**ORDER DENYING APPELLANT'S MOTION TO  
HAVE HEARING IN JEFFERSON COUNTY**

A hearing has been set for August 8, 2019, to address the above referenced appeal. Mr. Tabb has moved this Board for an order changing the location of the hearing to Jefferson County. The Board hereby denies Mr. Tabb's request for the following reasons:

The Board is authorized by W.Va. Code § 22B-1-7 to change the location of the hearing to the area where the source or activity is located. However, the Board's procedural rules express a preference for Charleston:

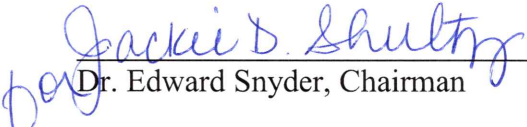
6.4. Place of Hearing. Unless the board determines otherwise, evidentiary hearings shall be held in the board's offices located at 601 57<sup>th</sup> Street, S.E., Charleston, West Virginia.

W.Va. Code St. R. §46-4-6.4. Mr. Tabb offers no compelling reason to change the location of the August 8<sup>th</sup> hearing. WVDEP's witnesses are located in Charleston. The official records related to this appeal are maintained at WVDEP headquarters in Charleston.

In addition, the Board customarily meets in Charleston, and its staff and facilities are located in WVDEP's Charleston headquarters. Lastly, the Board finds Mr. Tabb's request to be untimely. The Board does not have time to make the necessary arrangements to move the hearing to Jefferson County. Also, the Board's legal counsel and some Board members may not be able to attend.

Accordingly, for all the foregoing reasons, the Board **DENIES** the Appellant's Motion.

**ORDERED** and **ENTERED** this 2nd day of August, 2019.

  
Dr. Edward Snyder, Chairman

ENVIRONMENTAL QUALITY BOARD

DAVID C. TABB,

Appellant,

v.

Appeal No. 19-08-EQB

HAROLD D. WARD, DEPUTY SECRETARY  
FOR OPERATIONS, DIVISION OF WATER  
AND WASTE MANAGEMENT, DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Appellee,

and

JEFFERSON COUNTY DEVELOPMENT AUTHORITY,

Intervenor.

CERTIFICATE OF SERVICE

I hereby certify that I, Jackie D. Shultz, Clerk for the Environmental Quality Board, have this day, the 2nd day of August, 2019, served a true copy of the foregoing **Order Denying Appellant's Motion To Have Hearing In Jefferson County** via e-mail and certified United States mail, postage pre-paid, or via personal service, to the following:

*via e-mail and certified U.S. Mail to:*

Mr. David Tabb  
107 Tabb Lane  
Harpers Ferry WV 25425  
[ssi27@yahoo.com](mailto:ssi27@yahoo.com)

91 7199 9991 7039 1717 8076

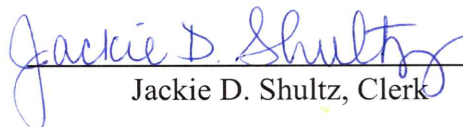
William F. Rohrbaugh, Esquire  
P.O. Box 3090  
Martinsburg, WV 25401  
[williamrohrbaugh@outlook.com](mailto:williamrohrbaugh@outlook.com)

91 7199 9991 7039 1717 8069

*via certified mail and/or personal service:*

Jason E. Wandling, Esquire  
Office of Legal Services  
WV Department of Environmental Protection  
601 57<sup>th</sup> Street, S.E.  
Charleston, WV 25304  
[jason.e.wandling@wv.gov](mailto:jason.e.wandling@wv.gov)

Katheryn Emery, P.E., Acting Director  
Division of Water and Waste Management  
WV Department of Environmental Protection  
601 57<sup>th</sup> Street, S.E.  
Charleston, WV 25304

  
Jackie D. Shultz, Clerk