

JUN 7 2022

BEFORE THE WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD

**DD OIL COMPANY,
a West Virginia Corporation,**

Appellant,

Appeal No.: 22-01-EQB

v.

**STATE OF WEST VIRGINIA, EX REL.,
HAROLD D. WARD, Cabinet Secretary,
West Virginia Department of
Environmental Protection,**

Appellee.

**APPELLANT'S RESPONSE TO APPELLEE'S MOTION
TO QUASH SUBPOENA OF JEFFERY DYE**

COMES NOW, Appellant, DD Oil Company, by counsel, J. Morgan Leach, Esq., Ryan J. Umina, Esq., and Beth L. Umina, Esq., and hereby objects to the Appellee's Motion to Quash Subpoena, and in support thereof, states as follows:

As represented in Appellant's Response to Appellee's Motion in Limine and Motion to Strike from the Record, which is hereby incorporated by reference, the expected testimony of Mr. Dye will not divulge privileged information. Rather, Mr. Dye's testimony is necessary to establish discoverable facts in this matter related to the WVDEP's conduct in preventing DD Oil from completing its permitted well work within the timelines of its permit. Further, Appellant believes that Mr. Dye was also aware of and involved in the decision to preemptively find ways to invalidate DD Oil's permits in an attempt to obtain additional permit fees to prevent layoffs in their agency as alleged in Paragraph 29 in the Appeal from Order and Annulment Review, which is hereby incorporated by reference. Such conduct would expose ulterior motives to issue Notice of Violations by top officials in the WVDEP and prove that the issuance of the same was not

based on DD Oil's conduct but on the agency's desire to collect permit fees to prevent layoffs. Appellant contention that Mr. Dye was involved in such activities is therefore highly relevant to its appeal. Granting the motion to quash the subpoena for Jeffery Dye will prejudice the Appellant's case and prevent the discovery of otherwise admissible evidence. Moreover, Appellant's motion was not timely and should therefore be denied on those grounds.

WHEREFORE, Appellant respectfully requests that Appellee's motion be denied, Mr. Dye be commanded to comply with the subpoena, as well as such other relief the Board deems proper.

Respectfully submitted,
Appellant by Counsel

/s/ J. Morgan Leach

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CERTIFICATE OF SERVICE

I, J. Morgan Leach, hereby certify that I have served a true and correct copy of the forgoing **APPELLANT'S RESPONSE TO APPELLEE'S MOTION TO QUASH SUBPOENA OF JEFFERY DYE** by email and USPS First Class mail upon the following this 3rd day of June, 2022.

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/s/ J. Morgan Leach
J. MORGAN LEACH, ESQ.