

BEFORE THE WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD

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CENTRAL WEST VIRGINIA REGIONAL  
AIRPORT AUTHORITY,

Environmental Quality  
Board

Appellant,

Appeal No.: 25-03-EQB

v.

KATHERYN EMERY, DIRECTOR,  
DIVISION OF WATER AND WASTE MANAGEMENT,  
WEST VIRGINIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

Appellee.

**MOTION TO EXTEND DEADLINE TO RESPOND TO MOTION TO DISMISS**

Appellant Central West Virginia Regional Airport Authority (the “Airport”) moves the Board for an extension of the February 10, 2025 deadline to respond to “WVDEP’s Motion to Dismiss and Stay Preparation of the Certified Record.” In support of this motion, the Airport states the following:

1. On Friday, January 31, 2025, Appellee West Virginia Department of Environmental Protection (“DEP”) moved to dismiss the above-styled appeal and stay the deadline to prepare a certified record. Under the Board’s procedural rules, a response to that motion is due within 10 days (by February 10, 2025).
2. By email dated Monday, February 3, 2025, the Board’s clerk provided notice that the Board partially granted the motion by staying the deadline for DEP to prepare a certified record until after resolution of the other aspect of the motion seeking dismissal of the appeal.
3. The February 3, 2025 email also confirmed the February 10, 2025 deadline for the Airport to respond to the aspect of the motion seeking dismissal of the appeal.

4. DEP's motion raises significant issues concerning the ability to appeal a violation notice issued under the West Virginia Groundwater Protection Act that required the Airport to take specific actions. Based on preliminary research, it does not appear that the Board has previously addressed that issue. The legal authority attached to DEP's motion involves violations issued under the West Virginia Water Pollution Control Act and the West Virginia Air Pollution Control Act. The provisions of these statutes governing what constitutes an appealable action are markedly different from the provisions of the West Virginia Groundwater Protection Act addressing what constitutes an appealable action.
5. Due to other pending obligations over the next week, both the Airport its counsel require additional time to adequately research and evaluate the issues raised by DEP's motion, determine a course of action, and prepare a response.
6. The Airport therefore asks that the deadline to file a response to DEP's motion be extended to at least February 24, 2025.

Date Filed: February 4, 2025

**Central West Virginia Regional Airport Authority  
By Counsel**



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**CERTIFICATE OF SERVICE**

The undersigned counsel for Appellant hereby certifies that the foregoing has been served upon Appellee's counsel this 4<sup>th</sup> day of February, 2025, via email and US Mail addressed to the following:

Jonathan Frame, Esq.  
Charles Scott Driver, Esq.  
Office of Legal Services  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street, S.E.  
Charleston, West Virginia 25304



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