



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD



GEIGER DEVELOPMENT CORPORATION :
:
v. : **EHB Docket No. 2025-111-W**
:
COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF ENVIRONMENTAL : **Issued: July 13, 2026**
PROTECTION :

OPINION AND ORDER ON
MOTION TO COMPEL DISCOVERY RESPONSES AND DEEM ADMITTED
REQUESTS FOR ADMISSION

By MaryAnne Wesdock, Judge

Synopsis

Where a party fails to respond to discovery requests, related communications, and a motion to compel, the motion to compel is granted and the requests for admission are deemed admitted.

OPINION

Introduction

This matter involves an appeal filed with the Environmental Hearing Board (Board) by Geiger Development Corporation (Geiger) challenging a September 5, 2025 letter (letter) from the Department of Environmental Protection (Department). The letter informed Geiger of the Department's decision to declare forfeit the Geiger Development Treatment Trust (Trust), which was established in place of bonds pursuant to a Post Mining Treatment Trust Consent Order and Agreement (COA) entered in 2001. The Trust secured Geiger's obligation to provide sufficient financial assurance to maintain and operate a treatment system in perpetuity on a former mine site known as the Highland Resort & Estates a/ka/ Job 14, in the event Geiger was unable or unwilling

to meet the obligations of the COA. Geiger filed an appeal challenging the letter on October 24, 2025.

Pursuant to the Board's December 4, 2025 Order, written discovery in this matter was to be served by May 22, 2026, and all discovery was to be completed by June 22, 2026.¹ The Department served its First Set of Interrogatories, First Set of Requests for Admissions, and First Request for Production of Documents (collectively, discovery requests) on Geiger on April 28, 2026 via both first class mail and email. The Department requested that Geiger's counsel acknowledge receipt of the discovery requests, but Geiger's counsel failed to respond or acknowledge receipt. (Motion to Compel, para. 5.) Responses to the discovery requests were due on or before May 28, 2026.

On May 28, 2026, the Department attempted to contact Geiger's counsel via telephone and left a voicemail regarding the need to discuss the appeal and outstanding discovery requests. (*Id.* at para. 7.) On May 30, 2026, the Department attempted to contact Geiger's counsel regarding the outstanding discovery requests via email, informing counsel that the Department also intended to file a motion to compel the discovery responses should Geiger continue to fail to respond. (*Id.* at Ex. D.) Again, the Department received no acknowledgment of the email and no response. (*Id.* at para. 8.) On June 7 and June 9, 2026, the Department made additional attempts to contact Geiger's counsel via email and telephone, respectively, to which no response was received. (*Id.* at para. 9–11 and Ex. E.) On June 15, 2026, the Department filed a Motion to Compel seeking the following relief:

Department seeks to have the Board issue an order which: 1)
compels Geiger to provide full and complete substantive responses
to the Department's First Set of 3 4 Interrogatories, including any

¹ Deadlines for discovery were originally set forth in the Board's Pre-Hearing Order No. 1 issued on October 24, 2025, but were subsequently extended by 60 days in the Board's December 4, 2025 Order.

and all responsive documents sought in the Department's First Set of Interrogatories, and First Request for Production of Documents within 30 days; 2) deems all of the matters set forth in the Department's First Request for Admissions admitted; 3) extends the discovery deadlines to allow the Department the opportunity to depose a designee of Geiger following answers or responses to its Discovery Requests; and 4) extends the deadline set for the filing of dispositive motions to allow the Department additional time to file dispositive motions following the close of discovery.

(Department Motion, pp.3–4.) Geiger did not file a response to the Department's motion to compel.

Discussion

The Board is charged with overseeing discovery between the parties and has broad discretion to act to assure adequate discovery as needed. *See Wetzel v. DEP*, 2015 EHB 828, 829; *Borough of Old Forge v. DEP*, 2011 EHB 116, 118–19. Under the Board's Rules of Practice and Procedure, responses to discovery motions shall be filed within 15 days of the date of service of the motion, unless the Board orders otherwise. 25 Pa. Code § 1021.93. Where a party fails to respond to a discovery request, the Board has the authority to compel a party to provide answers or responses. *Wilson v. DEP*, 2014 EHB 435, 436 (citing Pa.R.Civ.P. 4019(a)(1)(i), (vii), and (viii); 25 Pa. Code 1021.93(c); *Mann Realty, Inc. v. DEP*, 2013 EHB 730, 731; *DER v. U.S. Steel Co.*, 1977 EHB 323). We have frequently ordered the production of responses where an unopposed motion to compel has been filed. *See Foust v. DEP*, 2018 EHB 604, 605; *Wilson*, 2014 EHB at 436. “Where, as here, we are required to step in and order a party to respond to discovery requests, we will do so to ensure the timely and orderly disposition of the appeal.” *Myers v. DEP*, 2011 EHB 123, 125.

Here, the record establishes that the Department timely served written discovery on Geiger and Geiger failed to respond within the applicable deadlines, ignored multiple attempts by the

Department to resolve the matter without Board intervention, and did not oppose the present motion. Under these circumstances, compelling responses to discovery is appropriate to ensure the orderly progression of this appeal.

The Department's motion also asks the Board to deem admitted the Department's First Request for Admissions. Generally, discovery in proceedings before the Board is governed by the Pennsylvania Rules of Civil Procedure. 25 Pa. Code § 1021.102(a); *Angela Cres Trust of June 25, 1998 v. DEP*, EHB Docket No. 2025-005-W (Opinion and Order on Motion to Compel issued July 1, 2026). Rule 4014(b) of the Pennsylvania Rules of Civil Procedure provides that with respect to requests for admission:

The matter is admitted unless, within thirty days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission an answer verified by the party or an objection, signed by the party or his attorney

Pursuant to that rule, this Board has consistently held that admissions are deemed automatically admitted if answers or objections are not provided within the 30-day timeframe. *Schlafke v. DEP*, 2013 EHB 386, 390 (citing *Rockland Natural Gas Company, Inc. et al v. DEP*, 2010 EHB 40). *See also Flatley v. DEP*, EHB Docket No. 2024-139-B (Opinion and Order on Motion for Summary Judgment issued May 8, 2026). Because Rule 4014 is self-executing, more than 30 days have elapsed since the Department served its initial request, and Geiger has failed to respond to numerous attempts to address the discovery requests since initial service, the matters addressed in the Department's request for admissions shall be deemed admitted.

Given that no discovery responses have been exchanged to date and because the original discovery and dispositive motions deadlines have only recently passed, no prejudice will result to



either the Department or Geiger by granting a short extension. Accordingly, we enter the following order.



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ORDER

AND NOW, this 13th day of July, 2026, it is hereby ordered that the Department's Motion to Compel is **granted** and it is further ordered as follows:

1. Within 30 days from the date of this Order, on or before **August 12, 2026**, Appellant shall serve the Department with:
 - a. Full and complete substantive answers to the Department's First Set of Interrogatories, including any and all responsive documents sought in the Department's First Set of Interrogatories Nos. 1–33;
 - b. Any and all documents responsive to the Department's First Request for Production of Documents Nos. 1–4.
2. All matters set forth in the Department's First Request for Admissions Nos. 1–34 are **deemed admitted**.
3. The deadlines set forth in the Board's October 24, 2025 Pre-Hearing Order 1 and December 4, 2025 Order shall be extended as follows:
 - a. All discovery in this matter shall be completed by **September 11, 2026**; and
 - b. All dispositive motions shall be filed by **October 13, 2026**.



ENVIRONMENTAL HEARING BOARD

s/ MaryAnne Wesdock
MARYANNE WESDOCK
Judge

DATED: July 13, 2026

c: DEP, General Law Division:
Attention: Maria Tolentino
(via *electronic mail*)

For the Commonwealth of PA, DEP:
Daniel Schramm, Esquire
David Smith, Esquire
(via *electronic filing system*)

For Appellant:
Alexander C. Boose, Esquire
(via *electronic filing system*)