COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

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PENNSYLVANIA ENVIRONMENTAL HEARING BOARD

NATHAN EACHUS	:	
	:	
	:	**EHB Docket No. 2025-132-L**
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION and AMAZON DATA SERVICES, INC., Permittee	:	**Issued: November 16, 2026**

OPINION AND ORDER ON
PETITION FOR RECONSIDERATION

By Bernard A. Labuskes, Jr., Board Member and Judge

Synopsis

The Board denies an appellant's petition for reconsideration where the appellant does not address any of the requirements for the reconsideration of a final order established in the Board's Rules and merely expresses his disagreement with the Board's ruling during summary judgment.

O P I N I O N

Nathan Eachus, proceeding *pro se*, appealed Storage Tank Site Specific Installation Permit No. 25-40-017 issued by the Department of Environmental Protection (the "Department") to Amazon Data Services, Inc. ("Amazon") for the installation of 204 aboveground storage tanks to store 1,306,000 gallons of diesel fuel at a site in Salem Township, Luzerne County. Mr. Eachus argued in his appeal that the Department failed to evaluate cumulative environmental and safety risks for the storage tanks in conjunction with what he said were other hydrogen storage tanks, methane-powered turbines, and the storage tanks' proximity to a nuclear energy facility known as the Susquehanna Steam Electric Station. He said there had not been sufficient emergency response planning and that the Department had not provided evidence of coordination with the Nuclear

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Regulatory Commission or other agencies. He also criticized the Department for "deferring oversight" to other agencies for alleged fire and explosive hazards.

Both Amazon and Mr. Eachus filed dispositive motions. We granted Amazon's motion for summary judgment and denied Mr. Eachus's motion for dispositive relief. *Eachus v. DEP*, EHB Docket No. 2025-132-L (Opinion and Order on Motion for Summary Judgment and Motion for Dispositive Relief issued Oct. 23, 2026). We held that Mr. Eachus had not made out a *prima facie* case on any of the claims in his appeal. With respect to his claims that safety concerns were not adequately evaluated, we found that Mr. Eachus had not identified any legal provision that would require the Department to evaluate safety concerns above and beyond what the Department already considers in permitting storage tanks. Perhaps more importantly, we found that Mr. Eachus did not provide any evidence to demonstrate why the Department should have conducted any additional safety analysis when permitting the storage tanks or how the permit should have been any different because of that analysis.

Mr. Eachus has now filed a petition for reconsideration of our Opinion and Order, seeking reconsideration of our granting of Amazon's motion for summary judgment. (He has not sought reconsideration of our denial of his own motion for dispositive relief.) He seeks reconsideration based on his arguments that something more should have been done in terms of safety when evaluating and issuing Amazon's storage tank permit. Amazon has filed a response in opposition to the petition, and the Department has filed a letter indicating its opposition.

Our rule regarding reconsideration of a final order such as the Opinion and Order we issued in this case reads in relevant part as follows:

> (a) A petition for reconsideration of a final order shall be filed within 10 days of the date of the final order….Reconsideration is within the discretion of the Board and will be granted only for compelling and persuasive reasons. These reasons may include the following:

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> (1) The final order rests on a legal ground or a factual finding which has not been proposed by any party.
>
> (2) The crucial facts set forth in the petition:
>
> (i) Are inconsistent with the findings of the Board.
> (ii) Are such as would justify a reversal of the Board's decision.
> (iii) Could not have been presented earlier to the Board with the exercise of due diligence.

25 Pa. Code § 1021.152(a).

Taking the listed bases for reconsideration in turn, first, Mr. Eachus's petition does not point to a legal ground or factual finding in our Opinion that was not proposed by any party. In fact, nothing in our Opinion goes beyond the arguments of the parties. Next, Mr. Eachus does not include *any* crucial facts in his petition that are inconsistent with the findings of the Board, let alone facts that would justify reversal of our decision which could not have been presented earlier with the exercise of due diligence. Although the bases for reconsideration set forth at Section 1021.152(a)(1) and (2) are not necessarily exclusive, reconsideration for any reason is within the discretion of the Board and will only be granted for compelling and persuasive reasons. 25 Pa. Code § 1021.152(a).

As we have held many times, and recently in an Opinion and Order denying a petition for reconsideration in another of Mr. Eachus's appeals, mere disagreement with a ruling is not a basis for reconsideration. *Eachus v. DEP*, EHB Docket No. 2025-131-L, slip op. at 3 (Opinion and Order on Petition for Reconsideration issued Nov. 6, 2026) (citing *Pileggi v. DEP*, EHB Docket No. 2022-068-BP, slip op. at 6 (Opinion and Order on Petition for Reconsideration issued Apr. 30, 2026); *B&R Resources, LLC v. DEP*, 2020 EHB 92, 94 (citing *New Hope Crushed Stone & Lime Co. v. DEP*, 2016 EHB 741, 745)). Instead, situations warranting reconsideration are limited to those where the Board made a clear mistake or missed key legal or factual points, *B&R Resources*, 2020 EHB at 94 (citing *Consol Pa. Coal Co. v. DEP*, 2015 EHB 117, 118). *See, e.g.*, *Miller v.*

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DEP, 1997 EHB 335; *Hawbaker, Inc. v. DEP*, 1996 EHB 230; *Adams Sanitation Co., Inc. v. DEP*, 1995 EHB 1279.

Not surprisingly, Mr. Eachus disagrees with our disposition of his appeal. He mostly repeats the same arguments raised earlier but also asserts that we did not "meaningfully resolve" a series of questions, including what he says is the central question of who evaluated "cumulative environmental consequences" of the storage tanks and the other industrial activity in the area. However, he cites no new law, no intervening change in the law, no new evidence, no previously unavailable crucial facts, no factual errors, and no grounds for decision raised *sua sponte* by the Board.

The essence of Mr. Eachus's petition, as was his claim throughout the appeal, is that the Department should have done more when evaluating the safety of the storage tanks because those tanks exist within some proximity to a nuclear power plant and other industrial activity. However, once again, Mr. Eachus fails to identify any legal duty to investigate that the Department failed to perform. As we noted in our Opinion, Mr. Eachus did not point to any statutory or regulatory requirement requiring the Department to do any such additional analysis. Indeed, he has not identified *any* provision of the Storage Tank and Spill Protection Act, 35 P.S. §§ 6021.101 – 6021.2104, the storage tank regulations, or any other law or regulation that the Department violated when issuing the permits under appeal.

Mr. Eachus neither before nor now has ever identified any nuclear safety obligation the Department has under the law regarding the tanks at issue. Mr. Eachus once again alludes to "applicable nuclear safety requirements" in his petition but he has not cited a single legal requirement that applies to the Department or the Department's review of permits for storage tanks. He generally pointed to some federal regulations that govern the Nuclear Regulatory Commission

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and the Federal Emergency Management Agency but did not explain how they place any "nuclear safety requirements" on the Department for this permit.

Mr. Eachus's case was factually as well as legally flawed. He never identified such basic things as the distance between the storage tanks and the nuclear reactors that concerned him, what fire or explosion threats or other hazards he believed should have been evaluated and why, purported impediments to emergency responders, and what required emergency planning was or was not done. Unfortunately, Mr. Eachus continues to fail to understand that he had the burden of proof in this appeal, 25 Pa. Code § 1021.122(c)(2), and it was his responsibility to show with some evidence, indeed, any evidence, that there was a legal or factual problem with the permit under the law. Instead, Mr. Eachus again claims there are a host of foreseeable yet unidentified calamities that he speculates could possibly occur and common sense dictates that more investigation should have been performed in his view. However, to meet one's burden of proof, an appellant must do more than simply say without any evidence that something bad could happen. And more to the point, Mr. Eachus has continued to fail to point to a single legal obligation with which the Department failed to comply in issuing the permit under appeal, or any other error on the Department's part in issuing the permit.

In any event, having failed to address the grounds for reconsideration in our Rules or otherwise demonstrate any compelling and persuasive reasons for reconsideration, we deny Mr. Eachus's petition. Accordingly, we issue the Order that follows.

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O R D E R

AND NOW, this 16th day of November, 2026, it is hereby ordered that the Appellant's petition for reconsideration is **denied**.

ENVIRONMENTAL HEARING BOARD

s/ MaryAnne Wesdock
MARYANNE WESDOCK
Chief Judge and Chairperson

s/ Bernard A. Labuskes, Jr.
BERNARD A. LABUSKES, JR.
Board Member and Judge

s/ Sarah L. Clark
SARAH L. CLARK
Board Member and Judge

s/ Paul J. Bruder, Jr.
PAUL J. BRUDER, JR.
Board Member and Judge

DATED: November 16, 2026

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