



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

CONNIE GALLAGHER

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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EHB Docket No. 2026-080-BP

Issued: July 31, 2026

**OPINION ON APPELLANT'S
PETITION FOR TEMPORARY SUPERSEDEAS**

By Paul J. Bruder, Jr., Judge

Synopsis

The Environmental Hearing Board ("Board") denies Appellant Connie Gallagher's ("Appellant or Ms. Gallagher") Petition for Temporary Supersedeas because Appellant's pleadings do not meet the Board's procedural requirements governing an Application for Temporary Supersedeas. Appellant has also failed to establish grounds sufficient for the issuance of a temporary supersedeas.

OPINION

Background

This appeal involves a June 24, 2026 Administrative Order revoking the approval to operate a transient non-community public water system at a business known as the Riverboat Saloon.

Appellant owns and solely operates the Riverboat Saloon, located at 5860 Old Route 22, Bernville, Pennsylvania ("Tavern"). (*See* Appellant's Petition for Temp. Supersedeas at pg. 1; DEP Brief in Opp. at pg. 1-2). The Department had previously granted Appellant approval,

pursuant to 25 Pa. Code § 109.505, to construct, modify, and operate a transient non-community public water system (“PWS”), which provides water for human consumption, at the Tavern. (*See* DEP Resp. in Opp. at pg. 2; DEP Ex. C-1 at ¶ F). The Tavern’s PWS includes a well, sediment filtration unit for particulate removal, an ultraviolet disinfecting light to address bacterial contaminants, and a distribution system. (*Id.*; DEP Ex. C-1 at ¶ D).

The Department states that on or about August 29, 2025, the Department advised Ms. Gallagher that the PWS needed to undergo regular sampling and monitoring to be analyzed by an accredited laboratory and submitted to the Department. (DEP Ex. C-1 at ¶ G). On November 7, 2025, the Department conducted a review of the records for the Tavern’s PWS and observed that the nitrate, nitrite,¹ and total coliform samplings were not performed. Thus, pursuant to 25 Pa. Code §§ 109.407; 109.410, the Department posted a Tier 3 Public Notice at the Tavern. (*Id.* at ¶ H). On December 17, 2025, the Department again reviewed the records for the Tavern, and after confirming that the required sampling had still not been performed, reposted the Tier 3 Public Notice at the Tavern. (*Id.* at ¶ I).

The Department also alleges that on March 6, 2026, the Department conducted an on-site inspection of the Tavern and observed that the PWS’s ultraviolet disinfection treatment light had been deliberately² disabled and bypassed. (*Id.* at ¶ J). As a result of its observations, on March 6, 2026, the Department issued a Field Order mandating in part that the PWS’s ultraviolet disinfection treatment light be serviced and returned to operation and the required water sampling

¹ The Order under Appeal as well as the Department’s Response to the Petition for Temporary Supersedeas states that required sampling has not been performed for “nitrate or nitrate.” When questioned about this duplicative language, the Department acknowledged this typographical error, and that it should say “nitrate and nitrite.”

² During a July 29, 2026 telephone conference call with all parties, Appellant stated that she did disable the ultraviolet light, as she was waiting for a new bulb to come in and she needed to disconnect it so that water was available for the public bathrooms.

be performed. (*Id.*) The March 6, 2026 Field Order was not appealed to the Board, and according to the Department, has not been complied with.

The Department alleges that Appellant repeatedly failed to periodically monitor the Tavern's PWS for certain contaminants (i.e. nitrate, nitrite, and total coliform bacteria) and failed to maintain and operate the ultraviolet disinfection treatment light necessary to ensure that safe and portable water was being made available to users, despite multiple posted public notices and a prior March 6, 2026 Field Order. (*See* DEP Brief in Opp. at pg 2; DEP Ex. C-1 at ¶ G.-M).³

On June 24, 2026, the Department issued an Administrative Order to SACHA, Inc.⁴ and Connie Gallagher: (1) revoking any and all authorizations previously granted by the Department pursuant to 25 Pa. Code § 109.505 for the construction and operation of the Riverboat Saloon PWS; (2) stating that within (24) hours of receipt of the Order, they shall cease operating the Tavern's PWS and cease providing water to the public for human consumption; and (3) mandating Appellant shall immediately notify the Department of their compliance. (DEP Ex. C-1, ¶¶ 1-3).

On July 22, 2026, Appellant filed the instant appeal. On Friday, July 24, 2026, Appellant filed a "Petition for Temporary Supersedeas" requesting that the Board stay the Department's Order and permit Appellant to resume commercial operations without using the PWS until a final hearing on the merits of the appeal. (*See* Appellant's Petition for Temp. Supersedeas at pg. 2). On Monday, July 27, 2026, the Department filed a Response in Opposition, arguing the Appellant's

³ During a July 29, 2026 conference call with the parties, the Department stated that Appellant had failed to periodically monitor and sample the water for a few years now, resulting in previous suspensions. The Department also stated that as early as 2017, the water tested positive for coliform bacteria. Although these statements were not refuted on the conference call, they are also not part of the written record.

⁴ During the July 29, 2026 conference call, Appellant advised that SACHA, Inc. is the landowner of the property.

pleading was procedurally noncompliant, and that Appellant did not meet her burden of proof for the relief being requested.

On July 29, 2026, Judge Bruder held a conference call with all parties to discuss the pending request for relief. At that time, Judge Bruder asked both sides questions concerning the Petition and the parties were provided the opportunity to make statements and arguments on their respective positions. On July 29, 2026, following the conference call, Judge Bruder issued an Order denying the Petition for Temporary Supersedeas. This Opinion serves as support for the July 29, 2026 Order.

Standard of Review

The Environmental Hearing Board's rules require that an application for temporary supersedeas be accompanied by a Petition for Supersedeas. 25 Pa. Code § 1021.64(b). A temporary supersedeas is an extraordinary remedy that is granted only when there is a clear demonstration of need for immediate and temporary relief before the Board can conduct a supersedeas hearing. *See Liberty Twp., et. al. v. DEP*, 2023 EHB 108, 109-11; 25 Pa. Code § 1021.64(a). Our rule on temporary supersedeas emphasizes the immediate nature of the relief by providing that a temporary supersedeas automatically expires in six (6) business days, unless otherwise ordered by the Board. 25 Pa. Code § 1021.64(f).

The standard for granting or denying an application for temporary supersedeas is set forth in 25 Pa. Code § 1021.64(e). When deciding whether to grant or deny an application for temporary supersedeas, the Board considers the following factors:

- (1) The immediate and irreparable injury the applicant will suffer before a supersedeas hearing can be held.
- (2) The likelihood that injury to the public, including the possibility of pollution, will occur while the temporary supersedeas is in effect.
- (3) The length of time required before the Board can hold a hearing on the petition for supersedeas.

25 Pa. Code § 1021.64(e).

Importantly, the Board does not consider the merits of the appeal in the context of a temporary supersedeas. *Beaver v. DEP*, 2002 EHB 574, 580 n.5 (“We note that while likelihood of success on the merits is a factor in determining whether to grant a supersedeas it is not a factor in determining whether to grant a temporary supersedeas.”).

A party seeking a temporary supersedeas has an exceptionally high burden to show that a temporary supersedeas is justified. *Nicholas Meat, LLC v. DEP*, 2021 EHB 96, 97. In order to grant an application for temporary supersedeas, there needs to be credible evidence of immediate and irreparable injury. See *Global Eco-Logical Servs., Inc. v. DEP*, 1999 EHB 93 (denying application for temporary supersedeas where not enough evidence supporting injury); *A&M Composting, Inc. v. DEP*, 1997 EHB 965 (denying application for temporary supersedeas where application did not explain how party would be harmed during the time period until the Board could rule on the petition for supersedeas). Our Board has held that general or speculative assertions of irreparable injury without greater specificity are insufficient to support issuance of a supersedeas. See *Liberty Twp., et. al. v. DEP*, 2023 EHB 108, 110-11 (citing *Mellinger v. DEP*, 2013 EHB 322, 328; *Al Hamilton Contracting Co. v. DER*, 1993 EHB 329, 331).

Discussion

In the instant matter, Appellant has not satisfied the procedural requirements of 25 Pa. Code § 1021.64(b), which are necessary for an application for temporary supersedeas, and for that reason alone, the requested relief is denied. However, even had the procedural requirements been properly followed, we would deny relief because Appellant has not met her substantive burden of demonstrating immediate and irreparable injury before the Board can conduct a supersedeas hearing. 25 Pa. Code §§ 1021.62; 1021.64(b).

Procedural Defects

Appellant's request for relief does not comply with the Board's procedural requirements. Pursuant to 25 Pa. Code § 1021.64(b), an application for temporary supersedeas must be accompanied by a Petition for Supersedeas, with all proper supporting documentation. Here, Appellant did not file a petition for supersedeas, did not include supporting affidavits, and did not provide a satisfactory explanation for the absence of supporting affidavits. Without these pleadings, any request for temporary supersedeas relief is procedurally deficient.

While the Board often provides leniency to *pro se* appellants with respect to procedural requirements, we are nonetheless bound by our rules, and therefore that leniency has limits. The Board has consistently held that the form and content requirements of 25 Pa. Code § 1021.62 must be strictly followed and that failure to comply may result in the *sua sponte* denial of a petition under 25 Pa. Code § 1021.62(c). *Vanduzer v. DEP*, 2018 EHB 696; *Dougherty v. DEP*, 2014 EHB 9; *Guerin v. DEP*, 2014 EHB 18; *Timber River Dev. Corp. v. DEP*, 2008 EHB 635; *King Drive Corp. v. DEP*, 2003 EHB 779; *Goodman Grp., Ltd. v. DEP*, 1997 EHB 697. Due to these procedural failures, the requested relief must be denied.

Substantive Review of the Requested Relief

While we deny on procedural grounds, a review of the substantive criteria is worth noting. Appellant has failed to meet the exceptionally high burden of proof required for the issuance of a temporary supersedeas. Appellant has not made an argument explaining why relief is so urgent that she could not wait for a supersedeas hearing, typically held within two to three weeks from the filing of a proper Petition for Supersedeas. Instead, Appellant states that she is the "sole operator of the [Tavern] and cannot survive operational closure until November 2026 without facing catastrophic, unrecoverable commercial and personal bankruptcy." (See Petition for

Temporary Supersedeas, ¶ I(5)). She likewise asserts that she will “suffer immediate, unrecoverable, and catastrophic financial ruin if forced to remain closed until the November 2026 hearing.” (*Id.* at ¶ III(A)(1)). These assertions, however, address the alleged consequences of remaining closed until a merits hearing in the fall rather than the harm Appellant will suffer before the Board can conduct a supersedeas hearing. A temporary supersedeas is warranted only where an applicant can demonstrate they will suffer immediate and irreparable injury until the Board can hold a hearing on a petition for supersedeas, not irreparable injury until the Board can hold a merits hearing. 25 Pa. Code § 1021.64(a); *Ponderosa Fibres of Pa. P’ship v. DEP*, 1998 EHB 1004, 1007. As Appellant has failed to address this distinction, she has not established that a temporary supersedeas is appropriate.

Additionally, Appellant has not provided competent evidence demonstrating that she will suffer immediate and irreparable injury before a supersedeas hearing can be held. Appellant states in her petition that “a multi-month operational freeze will force the permanent destruction of Appellant’s solo livelihood, create an unrecoverable loss of local customer goodwill, cause complete personal and corporate insolvency, and systematically destroy the market value of Appellant’s liquor license asset.” (*See* Petition for Temporary Supersedeas, ¶ III(A)(2)). In support, Appellant submitted a document titled “Sales Report” that showed May 1, 2026 through May 31, 2026 gross sales totaling \$1,678.75 and June 1, 2026 through June 30, 2026 gross sales totaling \$1,284.50. (*See* Petition for Temporary Supersedeas, Ex “A”). As the Department observes, it is unclear from these documents what products or services are being sold, or whether the reported sales are representative of Appellant’s total business activities at the Tavern over a typical month. More importantly, these gross sale figures do not establish how Appellant will suffer immediate and irreparable injury before the Board can hold a supersedeas hearing. The

Board has held that general or speculative assertions of irreparable injury without greater specificity are insufficient to support issuance of a supersedeas, *Liberty Twp., et. al. v. DEP*, 2023 EHB 108, 110-11 (citing *Mellinger v. DEP*, 2013 EHB 322, 328; *Al Hamilton Contracting Co. v. DER*, 1993 EHB 329, 331).

Lastly, and most importantly, we cannot issue a temporary supersedeas when there is a threat of either immediate or irreparable injury to public. Although Appellant has stated that she will voluntarily institute an immediate zero-tap water emergency plan, the record demonstrates that the conditions of the March Field Order have not been satisfied, including but not limited to incomplete sample results. Consequently, it remains uncertain whether the water system is safe for human consumption in the event a customer accidentally or purposefully ingests water from the system.

Accordingly, for the above stated reasons, we deny Appellant's request for a temporary supersedeas.

ENVIRONMENTAL HEARING BOARD

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

DATED: July 31, 2026

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

For the Commonwealth of PA, DEP
Dennis Yuen, Esq.
Cherise Pabia, Esq.
(via electronic mail)

For Appellant:
Connie Gallagher, *pro se*
(via *electronic filing system*)