

Docket Number: 1983

CHAIN DAM HYDROELECTRIC CORPORATION

Lorenzo W. Crowe, Jr., Esquire

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL RESOURCES

~~Keith E. Welks, Chief Counsel~~  
Nels J. Taber, Esquire

**June 12, 1995**

By Order of the Commonwealth Court, case filed, Order as follows:

"AND NOW, this 12th day of June, 1995, upon consideration of the above-captioned matter, it appearing that this Court does not have jurisdiction over Count II of Chain Dam Hydroelectric Corporation's (CDHC) counterclaim for the following reasons: 1. This Court's original jurisdiction in this matter was based on the Commonwealth of Pennsylvania, Department of Environmental Resources' (DER) complaint against multiple defendants including CDHC. 2. This Court's jurisdiction over CDHC's counterclaim was ancillary to DER's original suit. 3. By memorandum Opinion and Order filed April 27, 1989, this Court dismissed Count I of CDHC's counterclaim leaving only Count II for DISPOSITION. 4. DER requested dismissal of its suit against CDHC and the matter was discontinued on June 7, 1995. 5. In Count II of its counterclaim, CDHC seeks compensatory damages for losses suffered as a result of its reliance of contractual agreements made with DER. 6. Claims arising out of contract with the Commonwealth are within the exclusive jurisdiction of the Board of Claims. See, Act of May 20, 1937, P.L. 728, as amended, 72 P.S. §4651-4. See also, Ezy Parks, Inc. v. Larson, 64 Pa. Commonwealth Ct. 164, 439 A.2d 885 (1982). Therefore, this matter is hereby, sua sponte transferred to the Board of Claims pursuant to 42 Pa. C.S.A. §5103. The Chief Clerk shall certify a photocopy of the docket entries of the above-captioned matter and the record to the Board of Claims."

**THE FOLLOWING FILED IN COMMONWEALTH COURT**

**May 13, 1988**

Petition for Review/Notice of Appeal Filed.

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**May 19, 1988**

Notices Exit

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**May 2, 1995**

Motion for Continuance of hearing filed by Plaintiff.

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**May 5, 1995**

Order filed- Plaintiff's Motion for Continuance of hearing is Denied.  
McGinley, J.- Order exit May 8, 1995.

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**June 7, 1995**

Praecipe to Discontinue  
EVENT RESULT: Discontinued

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**June 12, 1995**

Order filed -- The Counterclaim in this matter is transferred to the Board of Claims. McGinley, J. -- Order exit June 13, 1995.

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**June 13, 1995**

Order Filed -- Hearing previously scheduled for June 19, 1995 at 1:30 p.m. is canceled. PER CURIAM. Order Exit June 14, 1995.  
EVENT RESULT: Hearing Canceled.

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**July 7, 1995**

Filed - Other Transferred to the Board of Claims

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**CLOSED**

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**June 12, 1995**

Record transferred from Commonwealth Court.

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**July 20, 1995**

File received from Commonwealth Court. Amount of Claim: \$Unknown

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**August 1, 1995**

Letter forwarded to Plaintiff requesting additional copies of complaint and filing fee.

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**September 12, 1995**

Additional copies of Complaint and filing fee filed by attorney for Plaintiff.

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**September 19, 1995**

Copies of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.

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**September 25, 1995**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy attorney General September 20, 1995.

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**October 18, 1995**

Answer filed by attorney for Defendant.

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**October 24, 1995**

Copy of Answer forwarded to attorney for Plaintiff and Chief Deputy Attorney General.

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**November 1, 1995**

Acceptance of Service of Answer received from attorney for Plaintiff.  
Receipt of same acknowledged by Plaintiff October 27, 1995.

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**July 17, 1997**

Stipulation, requesting that Count I of the Complaint be withdrawn, executed by parties, filed by attorney for Plaintiff.

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**August 13, 1997**

The Board rendered an Opinion and made the following Order: **AND NOW, this 13th day of August, 1997, it is ORDERED and DECIDED** that the Joint Stipulation is accepted and Count I of the Complaint of the Plaintiff, Chain Dam Hydroelectric Corporation, is hereby **WITHDRAWN.**" Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**August 18, 1997**

Acceptance of Service of Opinion and Order dated August 13, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 15, 1997.

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**October 3, 1997**

Panel Hearing scheduled for January 20, 21 & 22, 1998 in Board's Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, PA commencing at 9:30 a.m.

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**November 6, 1997**

Letter received from Defendant relative to a joint request for an extension of time for the parties to file their Pre-Trial Statements until November 20, 1997.

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**November 25, 1997**

Letter received from Defendant relative to confirming a joint request for an extension of time for the parties to file their Pre-Trial Statements until December 5, 1997.

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**December 5, 1997**

Letter received from Plaintiff relative to confirming a joint request for an extension of time, which was concurred to by Mr. McLaughlin, for the parties to file their Pre-Trial Statements until December 19, 1997.

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**December 19, 1997**

Defendant's Pre-Trial Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 19, 1997**

Plaintiff's Pre-Trial Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**CLOSED**

Panel Hearing held this date in Board's Courtroom No. 2, Suite 600, Fulton Building, Harrisburg, Pennsylvania.

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**January 21, 1998**

Panel Hearing held this date in Board's Courtroom No. 2, Suite 600, Fulton Building, Harrisburg, Pennsylvania.

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**January 22, 1998**

Panel Hearing held this date in Board's Courtroom No. 2, Suite 600, Fulton Building, Harrisburg, Pennsylvania. Case Completed.

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**February 17, 1998**

Testimony of Panel Hearing held January 20, 21 and 22, 1998 filed.

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**February 20, 1998**

Copy of testimony of Panel Hearing held January 20, 21 and 22, 1998 forwarded to attorney for Defendant. **Plaintiff's Findings of Fact, Conclusions of Law and Brief due March 23, 1998.**

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**February 23, 1998**

Letter filed by attorney for Plaintiff requesting an extension of time until April 15, 1998 in which to file Plaintiff's Findings of Fact, Conclusions of Law and Brief. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**February 25, 1998**

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting request for an extension of time to file its Findings of Fact, Conclusions of Law and Brief. **Plaintiff's Findings, etc. now due on or before April 15, 1998.**

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**March 2, 1998**

Acceptance of Service of Testimony of hearing held January 20, 21 & 22, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 24, 1998.

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**April 17, 1998**

Claimant, Chain Dam Hydroelectric Corporation, Findings of Fact, Conclusions of Law and Brief filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant, attorney for Plaintiff.

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**May 1998**

Letter received from Defendant requesting an extension of time, to May 29, 1998, for filing of the Department's Findings of Fact, Conclusions of Law and Brief.

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**May 6, 1998**

Letter forwarded to attorney for Defendant, with copy to attorney for Plaintiff, granting Defendant until May 29, 1998 in which to file its Findings of Fact, Conclusions of Law and Brief.

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**May 27, 1998**

Department of Environmental Protection's Post Hearing Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**August 17, 1998**

Panel Report (Giles & Kambic) filed.

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**October 21, 1998**

The Board rendered a Final Opinion and made the following Order: **"AND NOW**, this 21st day of October, 1998, on the basis of the submissions of the parties, it is **ORDERED** and **DECREED** that judgment is entered in favor of Defendant, Commonwealth of Pennsylvania, Department of Environmental Protection, and against the Claimant, Chain Dam Hydroelectric Corporation on Claimant's Counterclaim for damages. Each party to bear its own costs and attorney's fees." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

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**October 26, 1998**

Acceptance of Service of Final Opinion and Order dated October 21, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 22, 1998.

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**October 26, 1998**

Acceptance of Service of Final Opinion and Order dated October 21, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 23, 1998.

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**November 2, 1998**

Acceptance of Service of Final Opinion and Order dated October 21, 1998 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 22, 1998.

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**CLOSED**