

Docket Number: 4218

SUSQUEHANNA SUPPLY COMPANY

James W. Kutz, Esquire
Nicholas V. Fox, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

~~Jason D. Sharp, Chief Counsel~~
Jason M. Wolgemuth, Assistant Counsel
~~Seth F. Bortner, Assistant Counsel~~
Brett D. Pollock, Assistant Counsel

October 9, 2020

Plaintiff filed Complaint, proof of mailing and filing fee. Amount of Claim: \$750,000.00+.

October 13, 2020

Board issued Acknowledgment letter requesting response from Defendant and forwarding a copy of the Complaint to Attorney General.

November 5, 2020

Attorney General filed acknowledgment of complaint form. Receipt of same acknowledged October 22, 2020.

November 5, 2020

Defendant filed Answer with New Matter.

November 10, 2020

Board forwarded letter to Plaintiff, with copy to Defendant, requesting response to New Matter.

November 24, 2020

Plaintiff filed reply to new matter.

December 2, 2020

Board forwarded letters to parties directing them to commence with discovery.

February 22, 2021

Plaintiff filed letter requesting 2 Subpoenas 4009.21 - to produce documents.

February 23, 2021

Board forwarded two Subpoenas 4009.21 - to produce documents) dated

February 23, 2021 to Plaintiff.

June 15, 2021

Plaintiff filed Motion to Compel Responses and Production of Documents, Memorandum in Support and Proposed Order.

June 16, 2021

Board forwarded letter to Defendant requesting response to Plaintiff's Motion to Compel Responses and Production of Documents.

July 15, 2021

Defendant filed reply to Plaintiff's motion to compel responses and production of documents and request for status conference.

July 22, 2021

Plaintiff filed reply brief in support of its motion to compel responses and production of documents and request for status conference.

July 28, 2021

Board forwarded letter to parties scheduling a status conference for August 18, 2021 at 1:00 p.m.

August 18, 2021

Board held status conference at 1:00 p.m.

September 3, 2021

Defendant filed a letter as directed by the Board regarding issues brought up at the status conference.

September 7, 2021

Plaintiff filed a letter in response to Defendant's letter of September 3, 2021.

November 1, 2021

Board rendered Opinion and Order. Order as follows: **"AND NOW,** this 1st day of November, 2021, upon consideration of the Motion to Compel filed by Susquehanna Supply Company, the response thereto filed by PennDOT, and the discussion and reports from the status conference, it is hereby **ORDERED** and **DECREED** that the Motion to Compel filed by Susquehanna Supply Company is **GRANTED** in **PART**, in accordance with this opinion. (1) PennDOT shall conduct an electronic search of relevant terms such as dewater, diversion dike, etc., which search is limited to documents that include the terms "ECMS 5142" or "SR 1023." (2) PennDOT shall consult with its engineering and IT staff to develop search terms, and shall conduct an electronic search of its documents, which search will be limited to identifying documents related to cost overruns or delays caused by the inability to dewater a similar waterway located on a glacial plain during a three year period before and after the construction at issue in this litigation, during a similar season of the year. Any documents from these searches subject to privilege shall be identified on a privilege log." Copy forwarded to Plaintiff and Defendant.

December 27, 2021

Plaintiff filed acceptance of service of Opinion and Order dated November 1, 2021. Receipt of same acknowledged November 10, 2021.

January 5, 2023

Plaintiff filed Request for Telephonic Status Conference.

January 9, 2023

Board forwarded letter to parties requesting proposed scheduling information.

January 24, 2023

Plaintiff filed proposed scheduling order.

January 24, 2023

Defendant filed proposed scheduling order.

February 1, 2023

Board rendered a Scheduling Order. Order as follows: **"AND NOW**, this 1st day of February, 2023, it is hereby **ORDERED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant and filed with the Board is September 25, 2023; 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is October 23, 2023; 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by November 20, 2023; 4. The last day for filing pre-trial motions is December 7, 2023; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than January 17, 2024 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, February 6, 2024 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 7. This matter is set for hearing beginning on Tuesday, March 5, 2024 and running through Friday, March 15, 2024, or as otherwise necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

February 13, 2023

Plaintiff filed acceptance of service of Scheduling Order dated February 1, 2023. Receipt of same acknowledged February 7, 2023.

July 21, 2023

Defendant filed Notice of Service of Defendant's Interrogatories to Plaintiff.

July 21, 2023

Defendant filed Entry of Appearance of Seth F. Bortner, Assistant Counsel, on behalf of Defendant.

August 21, 2023

Defendant filed Notice of Withdrawal of Seth F. Bortner, Assistant Counsel, on behalf of Defendant.

November 8, 2023

Parties filed a joint for a settlement conference.

November 14, 2023

Defendant filed Praecipe for Entry of Appearance of Brett D. Pollock, Assistant Counsel, on behalf of Defendant.

December 4, 2023

Board scheduled a settlement conference for Wednesday, January 24, 2024 at 1:00 p.m.

January 17, 2024

Plaintiff filed Pre-trial Statement.

January 17, 2024

Defendant filed Pre-trial Statement.

January 24, 2024

Board held settlement conference.

February 2, 2024

Plaintiff filed a letter advising that the parties have reached a settlement agreement and requesting the Board remove the matter from the trial list.

June 18, 2024

Praecipe to Discontinue filed by out-of-state attorney that is not an attorney of record.

June 20, 2024

Plaintiff filed Praecipe to Discontinue.

June 24, 2024

Board rendered an Order. Order as follows: "**AND NOW**, this 24th day of June, 2024, upon receipt of a Praecipe executed by James W. Kutz, Esquire, on behalf of Plaintiff, Susquehanna Supply Company, advising that the parties have resolved the claims at issue, docketed with this Board under date of June 20, 2024, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

July 2, 2024

Defendant filed acceptance of service of Order dated June 24, 2024. Receipt of same acknowledged July 2, 2024.
