

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION,

Petitioner,

v.

GRANT TOWNSHIP OF INDIANA COUNTY  
and THE GRANT TOWNSHIP SUPERVISORS,

Respondents.

No. 126 MD 2017

**REPLY OF RESPONDENTS TO PETITIONER’S PRELIMINARY OBJECTIONS TO  
NEW MATTER AND COUNTERCLAIM OF RESPONDENTS**

**I. INTRODUCTION**

1. ADMITTED in part, DENIED in part. It is ADMITTED that the Department took the indicated action on the indicated date. It is DENIED that the Department possessed the authority to take such action.

2. ADMITTED.

3. ADMITTED.

4. ADMITTED.

5. ADMITTED.

6. ADMITTED in part, DENIED in part. It is ADMITTED that Judith Wanchisn, Stacy Long, and the “East Run Hellbenders Society” filed an appeal of the Well Permit with the EHB, Docket No. 2017-032-R. It is DENIED that the permit appeal occurred on April 26, 2017, because the permit appeal was filed on April 25, 2017.

7. ADMITTED.

8. ADMITTED.

9. ADMITTED.

10. ADMITTED.

11. ADMITTED in part, DENIED in part. It is ADMITTED that the Department may file preliminary objections under the circumstances it cites. It is DENIED that those circumstances here apply.

**II. PRELIMINARY OBJECTION - FAILURE TO EXHAUST A STATUTORY REMEDY (DEP'S WELL PERMIT)**

12. Respondents repeat and incorporate all of their responses above herein.

13. DENIED. The allegations in Paragraph 13 constitute legal conclusions to which no response is required, and is therefore denied.

14. DENIED. Whether or not Paragraph 14 contains an accurate quotation contained within the cited case, the text of the cited case is self-evident, and therefore the paragraph is DENIED. To the extent further response is deemed necessary, the allegations constitute legal conclusions to which no response is required, and is therefore DENIED.

15. DENIED. The allegations in Paragraph 15 constitute legal conclusions to which no response is required, and is therefore denied.

16. DENIED. The allegations in Paragraph 16 constitute legal conclusions to which no response is required, and is therefore denied.

17. ADMITTED in part, DENIED in part. ADMITTED that the Respondents' New Matter include the referenced paragraphs. Whether or not Paragraph 17 contains an accurate quotation of the Respondents' New Matter, the text of the Respondents' New Matter is self-evident, and therefore the paragraph is denied. To the extent further response is deemed necessary, the allegations in Paragraph 17 constitute legal conclusions to which no response is required, and is therefore denied.

18. ADMITTED in part, DENIED in part. ADMITTED that the Respondents' New Matter include the referenced paragraphs. Whether or not Paragraph 18 contains an accurate quotation of the Respondents' New Matter, the text of the Respondents' New Matter is self-evident, and therefore the paragraph is DENIED. To the extent further response is deemed necessary, the allegations in Paragraph 18 constitute legal conclusions to which no response is required, and is therefore denied.

19. DENIED. The allegations in Paragraph 19 constitute legal conclusions to which no response is required, and is therefore denied.

Answering the "WHEREFORE" clause following Paragraph 19, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**III. PRELIMINARY OBJECTION - LEGAL INSUFFICIENCY OF A PLEADING (DEMURRER TO COUNTS I, II and III OF COUNTERCLAIM - DECLARATORY JUDGMENT RELIEF)**

20. Respondents repeat and incorporate all of their responses above herein.

21. ADMITTED.

22. DENIED. The allegations in Paragraph 22 constitute legal conclusions to which no response is required, and is therefore denied.

23. DENIED. The allegations in Paragraph 23 constitute legal conclusions to which no response is required, and is therefore denied.

Answering the "WHEREFORE" clause following Paragraph 23, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**IV. PRELIMINARY OBJECTION - LACK OF JURISDICTION (COUNTS 1 THROUGH 5 OF COUNTERCLAIM)**

24. Respondents repeat and incorporate all of their responses above herein.

25. ADMITTED in part, DENIED in part. ADMITTED that the Respondents' Counterclaim includes the referenced paragraph. However, whether or not Paragraph 25 contains an accurate quotation of the Respondents' Counterclaim, the text of the Respondents' Counterclaim is self-evident, and therefore the paragraph is denied. To the extent further response is deemed necessary, the allegations in Paragraph 25 constitute legal conclusions to which no response is required, and is therefore denied.

26. DENIED. The allegations in Paragraph 26 constitute legal conclusions to which no response is required, and is therefore denied.

27. DENIED. The allegations in Paragraph 27 constitute legal conclusions to which no response is required, and is therefore denied.

28. DENIED. The allegations in Paragraph 28 constitute legal conclusions to which no response is required, and is therefore denied.

Answering the "WHEREFORE" clause following Paragraph 28, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**V. PRELIMINARY OBJECTION - LEGAL INSUFFICIENCY OF A PLEADING (DEMURRER TO NEW MATTER AND COUNTERCLAIMS BASED UPON CLAIMS THAT HOME RULE CHARTER LAW PROVIDES SUPREMACY OVER CONSTITUTIONAL AND STATUTORY LAW)**

29. Respondents repeat and incorporate all of their responses above herein.

30. DENIED. Whether or not Paragraph 30 contains an accurate summary of the Respondents' assertions, the text of the Respondents' New Matter and Counterclaim speaks for itself, and therefore the paragraph is DENIED.

31. ADMITTED in part, DENIED in part. ADMITTED that the Respondents' Counterclaim includes the referenced paragraphs. However, whether or not Paragraph 31 contains accurate quotations found within the Respondents' Counterclaim, the text of the Respondents' Counterclaim is self-evident, and therefore the paragraph is denied. To the extent further response is deemed necessary, the allegations and characterizations in Paragraph 31 constitute legal conclusions to which no response is required, and is therefore denied.

32. DENIED. The allegations in Paragraph 32 constitute legal conclusions to which no response is required, and is therefore denied.

33. DENIED. The allegations in Paragraph 33 constitute legal conclusions to which no response is required, and is therefore denied.

34. DENIED. The allegations in Paragraph 34 constitute legal conclusions to which no response is required, and is therefore denied.

35. DENIED. The allegations in Paragraph 35 constitute legal conclusions to which no response is required, and is therefore denied.

36. DENIED. The allegations in Paragraph 36 constitute legal conclusions to which no response is required, and is therefore denied.

37. DENIED. The allegations in Paragraph 28 constitute legal conclusions to which no response is required, and is therefore denied.

38. DENIED. The allegations in Paragraph 38 constitute legal conclusions to which no response is required, and is therefore denied.

Answering the “WHEREFORE” clause following Paragraph 38, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**VI. PRELIMINARY OBJECTION - LEGAL INSUFFICIENCY OF A PLEADING (DEMURRER TO NEW MATTER AND COUNTERCLAIMS BASED UPON ASSERTION BY TOWNSHIP OF IMMUNITY TO JUDICIARY’S CONSTITUTIONAL AUTHORITY TO ESTABLISH LAW)**

39. Respondents repeat and incorporate all of their responses above herein.

40. DENIED. Whether or not Paragraph 40 contains an accurate quote of the Respondents’ filings, the text of the Respondents’ New Matter and Counterclaim speaks for itself, and therefore the paragraph is DENIED.

41. DENIED. Whether or not Paragraph 41 contains an accurate quote of the Respondents’ filings, the text of the Respondents’ New Matter and Counterclaim speaks for itself, and therefore the paragraph is DENIED.

42. DENIED. The allegations in Paragraph 42 constitute legal conclusions to which no response is required, and is therefore denied.

43. DENIED. The allegations in Paragraph 43 constitute legal conclusions to which no response is required, and is therefore denied.

44. DENIED. The allegations in Paragraph 44 constitute legal conclusions to which no response is required, and is therefore denied.

45. DENIED. The allegations in Paragraph 45 constitute legal conclusions to which no response is required, and is therefore denied.

46. DENIED. The allegations in Paragraph 46 constitute legal conclusions to which no response is required, and is therefore denied.

Answering the “WHEREFORE” clause following Paragraph 46, Respondents Grant

Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**VII. PRELIMINARY OBJECTION - LACK OF SPECIFICITY (NEW MATTER AND COUNTERCLAIMS, COUNTS 1-5)**

47. Respondents repeat and incorporate all of their responses above herein.

48. DENIED. Whether or not Paragraph 48 contains accurate quotations of the Respondents' filings, the text of the Respondents' New Matter and Counterclaim speaks for itself, and therefore the paragraph is DENIED.

49. DENIED. The allegations in Paragraph 49 constitute legal conclusions to which no response is required, and is therefore denied.

50. DENIED. The allegations in Paragraph 50 constitute legal conclusions to which no response is required, and is therefore denied.

51. DENIED. The allegations in Paragraph 51 constitute legal conclusions to which no response is required, and is therefore denied.

Answering the "WHEREFORE" clause following Paragraph 51, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**VIII. PRELIMINARY OBJECTIONS - LEGAL INSUFFICIENCY OF A PLEADING (DEMURRER TO DEMAND FOR A JURY TRIAL)**

52. Respondents repeat and incorporate all of their responses above herein.

53. ADMITTED.

54. DENIED. The allegations in Paragraph 54 constitute legal conclusions to which no response is required, and is therefore denied.

55. DENIED. The allegations in Paragraph 55 constitute legal conclusions to which no

response is required, and is therefore denied.

Answering the “WHEREFORE” clause following Paragraph 55, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY the legal conclusion put forth by the Petitioner, as well as DENY that Petitioner is entitled to the requested relief.

**IX. CONCLUSION**

Answering the paragraph following the “Conclusion” heading, Respondents Grant Township of Indiana County and the Grant Township Supervisors DENY that Petitioner is entitled to the requested relief.

WHEREFORE, the Court should overrule the preliminary objections of Petitioner.

Dated: July 18, 2017

Respectfully submitted,

**/s/ Natalie A. Long, Esq.**

Natalie A. Long, PA I.D. No. 322001

P.O. Box 360

Mercersburg, Pennsylvania 17236

(618) 334-0033

long.natalie.law@gmail.com

**/s/ Elizabeth M. Dunne, Esq.**

Elizabeth M. Dunne, Esq. (HI 09171), *Pro Hac Vice*

Dunne Law, a Limited Liability Law Company

P.O. Box 75421

Honolulu, Hawaii 96836

(808) 554-1409

edunnelaw@gmail.com