

No. 22-ICA-74 - *DD Oil Company v. State of West Virginia, Ex Rel., Harold D. Ward, Cabinet Secretary, West Virginia Department of Environmental Protection*, **FILED**

December 8, 2023

LORENSEN, Judge, dissenting:

released at 3:00 p.m.
EDYTHE NASH GAISER, CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

I dissent from the majority's opinion as a matter of judicial restraint. In its appeal to this Court, DD Oil sought a modification of fracking permits issued by WVDEP because they had expired, through no fault of DD Oil, during the litigation of administrative proceedings before the EQB. During the pendency of DD Oil's appeal to this Court, WVDEP issued new, valid fracking permits to DD Oil. Considering the issuance of the new permits, the specific controversy giving rise to this appeal no longer exists. Accordingly, I would dismiss this case as moot.

Based on the foregoing, I respectfully dissent from the majority opinion.