

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:

Docket No.: 18-013058

**Petitions of Thomas Boerner,
Menominee Indian Tribe of
Wisconsin and Coalition to
SAVE the Menominee River on
the permit issued to Aquila
Resources, Inc. (consolidated
cases)**

Agency No.: WRP017785

**Part(s): 31, Floodplain Regulatory
Authority
301, Inland Lakes and Streams
303, Wetlands Protection**

**Agency: Department of Environmental
Quality**

Case Type: Water Resources Division

**Issued and entered
this 26th day of November 2018
by: Daniel L. Pulter
Administrative Law Judge**

SCHEDULING ORDER

At the Pre-Hearing Conference held on November 21, 2018, the Parties agreed to the following stipulations:

- a. Aquila Resources Inc. (Permittee) is the proper applicant.
- b. The proposed activity is regulated, and a permit is required.

At the conference, the following schedule was also established:

1. The Petitioners, Tom Boerner, the Menominee Indian Tribe of Wisconsin, and the Coalition to SAVE the Menominee River (Petitioners), may file and serve a Motion to Stay by **December 21, 2018**. The Water Resources Division (WRD) of the Department of Environmental Quality (DEQ) and the Permittee, Aquila Resources Inc. (Permittee), shall file and serve their Responses to the Motion by **January 11, 2019**. The Petitioners may file and serve a Reply by **January 18, 2019**.
2. The WRD shall provide a copy of its file to the Parties by **January 14, 2019**.

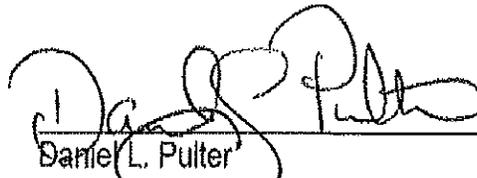
3. The Petitioners shall file and serve their Pre-Hearing Statements by **February 14, 2019**. A Pre-hearing Statement form has been enclosed for your convenience.
4. The WRD and the Permittee shall file and serve their Pre-Hearing Statements by **February 28, 2019**.
5. The Parties may file and serve Motions for Summary Disposition by **March 4, 2019**. Responses shall be filed and served by **March 25, 2019**. Replies may be filed and served by **April 5, 2019**.
6. The WRD shall provide the Petitioners and the Permittee with a copy of all its proposed exhibits by **April 15, 2019**. A proposed exhibit that is in the possession of the other parties, such as the application, or does not lend itself to copying, such as a photograph, shall be identified on an exhibit list provided to the other parties by **April 15, 2019**. Any exhibit not exchanged or identified by that date will not be admitted into evidence at the hearing unless unusual circumstances are shown to exist.
7. The Petitioners shall provide the WRD and the Permittee with a copy of all their proposed exhibits by **April 29, 2019**. A proposed exhibit that is in the possession of the other parties, such as the application, or does not lend itself to copying, such as a photograph, shall be identified on an exhibit list provided to the other parties by **April 29, 2019**. Any exhibit not exchanged or identified by that date will not be admitted into evidence at the hearing unless unusual circumstances are shown to exist.
8. The Permittee shall provide the WRD and the Petitioners with a copy of all its proposed exhibits by **May 13, 2019**. A proposed exhibit that is in the possession of the other parties, such as the application, or does not lend itself to copying, such as a photograph, shall be identified on an exhibit list provided to the other parties by **May 13, 2019**. Any exhibit not exchanged or identified by that date will not be admitted into evidence at the hearing unless unusual circumstances are shown to exist.
9. The WRD shall provide the Petitioners and the Permittee with a witness list by **April 15, 2019**. The witness list shall include a recitation of the witness' expected testimony. If a witness will be offered as an expert, the witness list shall identify their area of expertise. Further, a proposed expert's curriculum vitae shall be exchanged with the witness list. Absent a showing of good cause, a person not identified on a witness list will not be allowed to testify at the hearing.

10. The Petitioners shall provide the WRD and the Permittee with witness lists by **April 29, 2019**. The witness list shall include a recitation of the witness's expected testimony. If a witness will be offered as an expert, the witness list shall identify their area of expertise. Further, a proposed expert's curriculum vitae shall be exchanged with the witness list. Absent a showing of good cause, a person not identified on a witness list will not be allowed to testify at the hearing.

11. The Permittee shall provide the Petitioners and the WRD with a witness list by **May 13, 2019**. The witness list shall include a recitation of the witness's expected testimony. If a witness will be offered as an expert, the witness list shall identify their area of expertise. Further, a proposed expert's curriculum vitae shall be exchanged with the witness list. Absent a showing of good cause, a person not identified on a witness list will not be allowed to testify at the hearing.

12. The hearing for the above-referenced matter is scheduled for the following dates: **June 3 through June 7, 2019**; and **June 10 through June 14, 2019**. The hearing will begin at **9:00 a.m. on June 3rd**, and will be held in the Ottawa Building (ID required), 611 W. Ottawa, 2nd Floor, Lansing Michigan 48933, in downtown Lansing.

If any of the foregoing does not comport with your understanding of the agreements reached during the pre-hearing conference, please advise this Office in writing by **December 12, 2018**. Absent the filing of objections, the terms and dates set forth in this Scheduling Order shall be binding upon each party. All dates set forth in this Scheduling Order are mail dates, such that any filing submitted or document exchanged with a postmark after the dates established in this Scheduling Order will be considered untimely.



Daniel L. Pulter
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail; return receipt requested, at their respective addresses as disclosed below this 26th day of November 2018.



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