
Comment Response Document

***Commonwealth of Pennsylvania
Department of Environmental Protection***

PANTHER CREEK POWER OPR LLC

Permit Decision

Permit No. TV 13-00003

Nesquehoning Borough, Carbon County

Public Comment Period Dates

October 5, 2024, thru December 28, 2024

Public Hearing held on November 4, 2024

August 5, 2026

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Department of Environmental Protection

www.depweb.state.pa.us

FACILITY DESCRIPTION

On May 23, 2023, Panther Creek Power Operating, LLC (“Panther Creek”) submitted an application to the Pennsylvania Department of Environmental Protection (“Department”) to renew the Title V Operating Permit for the ongoing operation of Panther Creek’s electric generating facility in Nesquehoning Borough, Carbon County (“Facility”). On October 5, 2024, the Department of Environmental Protection (“Department”) published in *The Pennsylvania Bulletin* a Notice of Intent to Issue a renewal of Panther Creek’s Title V Operating Permit No. 13-00003 (“Title V Permit”). 54 Pa. B. 6297-6298 (Oct. 5, 2024). The notice stated that the Department would be accepting written comment on the permit renewal and announced a public hearing on November 4, 2024.

The Facility consists of two (2) circulating Fluidized Bed Boilers—Pyropower Units #1 and #2 (Source ID Nos. 031 and 032)—(“Boilers”) that burn anthracite refuse (“culm”) as the primary fuel source. The Boilers are also permitted to burn #2 fuel oil during start up, shut down, refractory cure, and load stabilization. Panther Creek is also permitted to use Tire Derived Fuel (“TDF”) as a supplemental fuel. Both Boilers were installed on July 1, 1992, and have a rated heat input/throughput of 600 MMBtu/hr. There have been no physical modifications or changes in the method of operation that are specifically associated with or proposed in the Title V Permit application.

In addition to the Boilers, Panther Creek also operates several pieces of ancillary equipment at the Facility, including the following:

- Diesel Fire Pump
- Ash Loading System
- Ash Silo
- Bottom Ash Conveyor
- Culm Crusher
- Cooling Tower
- Emergency Generator
- FFS1 Fly Ash Filter Separator #1
- FFS2 Fly Ash Filter Separator #2
- Fuel Silo/Reversing Conveyor
- Fuel Truck Dump
- Fuel Truck Unloading
- Lime Bin
- Limestone Bin
- Portable Kerosene Heaters (6)
- Roadways
- Reclaim Hoppers

Soda Ash Bin
Daily Use Refuse Storage Pile
Strategic Reserve Coal Refuse

This equipment and the Boilers are permitted to operate under the Title V Permit.

PUBLIC COMMENT PERIOD

The Department's October 5, 2024, Notice of Intent to Issue published in the *Pennsylvania Bulletin* opened a public comment period, during which the public had an opportunity to provide comments on the proposed renewal of the Title V Permit until December 28, 2024. 54 Pa. Bull. 6297-6298. The Notice also notified the public that the Department scheduled a public hearing for receiving comments on the proposed renewal of the Title V Permit for Monday, November 4, 2024, at the Panther Valey Junior/Senior High School Auditorium. Public comments were accepted by the Department until December 28, 2024, which was an extended public comment period, going beyond the 30-days provided in the Notice of Intent to Issue.

This Comment Response Document summarizes the written public comments submitted and testimony presented during the public hearing and provides the Department's responses to relevant comments received. The comments are not intended to be a complete summary of each individual's testimony, but rather to identify the issues or comments raised and provide the context for the Department's responses. The Department's responses are limited by the scope of the permit application process and the Department's authority under the Pennsylvania Air Pollution Control Act ("APCA"), the regulations promulgated thereunder, the Federal Clean Air Act ("CAA"), and the Federal regulations promulgated thereunder. The testimony of each individual testifying during the November 4, 2024, public hearing was transcribed, is available in its entirety at the Department's Northeast Regional Office and may be accessed by any person wishing to review the testimony by scheduling a file review with the Department at (570) 826-2511.

LIST OF COMMENTERS

1. Roy Christman
2. Linda Christman
3. Brandon Fogel
4. David Hawk, Plant Manager, Panther Creek Power
5. Lucy Freck
6. Susan Frey
7. Carol Etheridge
8. Nate Eachus
9. Steve Chuckra
10. Christopher Barachie
11. Joseph Kennedy
12. Richelle Dillon
13. PA State Representative Doyle Heffley

14. Nina Victoria, Community Advocate, Center for Coalfield Justice
15. Lauren E. Otero, Esq. Staff Attorney - Clean Air Council

PUBLIC COMMENTS AND DEPARTMENT RESPONSES

A. Concerns About Monitoring and Enforcement

Comment 1: The EPA sets overall limits and goals, but state agencies like the Pennsylvania Department of Environmental Protection are called upon to provide day to day enforcement of the rules and regulations. We Pennsylvanians depend on the Department to protect us from harm, from toxins in the air we breathe, pollutants in the rivers that we depend upon for our water supply and recreation, and contaminants in our soil in which we grow our crops.

The Panther Creek Power Plant should be monitored to ensure that its employees and the surrounding residents can work and live in a toxic free environment. I do not believe that is happening at the present time.

Response to Comment 1: The protection of public health, safety, welfare and the environment are fundamental to the Department's mission, as well as permitting under the Federal Clean Air Act and the Pennsylvania Air Pollution Control Act. The Title V Permit for the Facility incorporates applicable requirements under both of those statutes, as well as the regulations developed under those statutes.

In general terms, those requirements include Title V Permit Section B, Condition #008, which states, in part, that Panther Creek is required to comply with the conditions of its permit and noncompliance constitutes a violation of the Clean Air Act and the Air Pollution Control Act. Such noncompliance is grounds for an enforcement action; permit termination, modification or revocation and reissuance; or denial of a permit renewal. Panther Creek is required under Title V Permit Section B, Condition #010 to provide information that the Department requests, including copies of records that are required by the Permit. The Title V Permit also contains testing, monitoring, recordkeeping and reporting requirements (*See, e.g.* Title V Permit, Section B, Conditions #025 and #026, Section C, Subsections C-II through C-V, Section D, Subsections D-II through D-V, Section E, Subsections E-II through E-V and Section F, Subsections F-II through F-V), all of which are designed to monitor the Facility's compliance with applicable requirements. There are extensive regulatory requirements in the Title V Permit designed to limit emissions from the Facility and protect health, safety, welfare and the environment.

Moreover, Department staff conduct regular unannounced inspections at the Facility. There have been seven (7) full compliance evaluations completed since 2017 in which staff evaluates compliance with all permit conditions. Since 2018, Department staff has also conducted nine (9) partial inspections. Overall, there have been over 100 Department evaluations of Panther Creek since 2015. These evaluations include: seven (7) full compliance evaluations, nine (9) routine partial inspections, three (3) annual emissions submittal reviews, fourteen (14) continuous emission monitoring report reviews, three (3) complaint inspections, nine (9) Title V certification reviews, and fifty-eight (58) administrative reviews. Overall, Panther Creek has a compliance rate exceeding 90% ($\approx 93.2\%$) since 2015. This includes all noted Continuous Emissions

Monitoring System (“CEMS”) violations. CEMS continuously monitor certain emissions from the stack at the Facility. Violations are generally addressed through follow up inspections or additional enforcement actions. There have been four (4) Notices of Violation (“NOV”), and four (4) Consent Assessments of Civil Penalty, resolving violations at the Facility since 2015.

B. Operational Concerns

Comment 2: Concern that the Facility releases significant amounts of pollution into the air and water. Commenter asserts that there is no environmental benefit from the Facility, even though tax dollars heavily subsidize its operations. Commenter also states that the Facility has many violations of its Title V Permit and urges the Department to conduct close supervision of the Facility, including frequent unannounced inspections. Additionally, commenter asserts that Panther Creek is storing tire shreds when it does not have a permit to burn tires and is permitted to burn construction debris from New York. These are environmental hazards, and the burning of construction debris should cease as part of any approval of the operating permit.

Response to Comment 2: The Title V Permit contains emission limits and restrictions applicable to the different air emissions sources at the Facility. (See response to Comment 1 above and Title V Permit Section C, Condition #007. For example, there are permit conditions limiting fugitive emissions, malodors and visible emissions from the Facility. (See Title V Permit, Section C, Condition #s 001-005). The diesel generators have limits for Particulate Matter (“PM”), SO₂ and NO_x. (See Title V Permit, Section D, Condition #s 001-002 under Source ID DFP (Diesel Fire Pump) and ID EG (Emergency Generator) respectively. The Boilers have emissions limits for Filterable Particulate Matter (“FPM”) and Filterable PM-10, SO₂, CO, VOCs, and NO_x. (See Title V Permit, Section E, Group 01, Condition #001). In addition, as stated above in response to Comment 1, the Title V Permit contains testing, monitoring, recordkeeping and reporting requirements and the Department conducts regular inspections of the Facility to monitor compliance with applicable permit and regulatory requirements.

The Facility also has a General National Pollution Discharge Elimination System (“NPDES”) Permit for Stormwater Discharges Associated with Mining Activities (Permit No. PAM120008C2). Like the Title V Permit, the NPDES Permit contains limits—effluent limits—monitoring requirements and reporting requirements. Those requirements apply to the three outfalls at the Facility—Nos. 001, 002 and 003—that discharge stormwater to the Nesquehoning Creek. The Department also regularly inspects the Facility to monitor compliance with the NPDES Permit and applicable regulatory requirements. Through the permit conditions and regular inspections, the Department ensures that the Facility is operating in a way that is protective of the environment.

Panther Creek does have authorization under an Air Quality Plan Approval to burn TDF as a supplemental fuel in the Facility’s two Boilers (the “TDF Plan Approval”). The TDF Plan Approval was issued by the Department on May 1, 2025, and Notice of Issuance was published in the *Pennsylvania Bulletin* on May 17, 2025. 55 Pa. Bull. 3512. A copy of the Plan Approval is available on the Department’s website at the following link:

<https://www.pa.gov/agencies/dep/dep-regions/northeast-regional-office/panther-creek-electric-generating-facility>

Section E, Condition #007 of the TDF Plan Approval contains requirements related to the storage of TDF at the Facility. The Department's Air Quality Program worked in conjunction with its Waste Management Program to develop and incorporate these requirements into the Plan Approval.

Unlike TDF, the Facility is not currently authorized to burn construction and demolition ("C&D") waste from New York or anywhere else. Previously, the Department approved a Request for Determination ("RFD") that allowed Panther Creek to burn no more than 2,000 tons of wood fuel for thirty (30) consecutive days. The burning of construction debris as a fuel would be a violation of its Title V Permit and the Department's regulations.

Please refer to the Department's response to Comment 1 above for additional information.

Comment 3: The commenter expressed concerns about the harm to health and quality of life caused by the Facility. The Commenter asserts that Panther Creek does not test for particulates or monitor VOC emissions, and he objects to issuing a permit for TDF. The Facility must be continually monitored to verify it is in compliance and baghouse filters must be replaced on a regular basis. Installing electrostatic precipitators would provide additional protection for PAH's and the Department should perform periodic unannounced inspections. The Commenter further claims that Panther Creek plans to stop sending power to the grid and will no longer meet the definition of an electrical steam generation unit, and that Panther Creek has stated that it is permitted to burn construction debris, which can contain a variety of harmful and unknown pollutants. The Facility should be reclassified as an incinerator, and the current permit should not be reissued. If the Title V Permit is reissued, the Department must ensure that Panther Creek is meeting the requirements and regulations for its classification as an electric generating unit.

Response to Comment 3: While in recent years, the Facility has dedicated a certain percentage of its power generation to an onsite cryptocurrency operation, the Department's understanding is that it continues to produce power for the electrical grid upon PJM demand and would still be classified as an electric utility steam generating unit. (See 40 C.F.R. §7412(a)(8)).

Panther Creek is not currently permitted to burn construction debris. As stated above, the Department authorized Panther Creek to combust a limited amount of C&D waste on a trial basis pursuant to an RFD; however, that authorization was temporary and is no longer valid.

The Facility is equipped with baghouses and fabric filters, including baghouses on each of the two CFBs which are highly efficient at controlling particulate emissions. Panther Creek is required to continuously record pressure drops and baghouse inlet temperatures. Pressure differential provides a direct indication of the integrity of the baghouses and their components, including the bags. (See Title V Permit, Section E, Group 01, Condition #011). Pressure drop excursions beyond acceptable ranges trigger corrective actions which may include bag replacement. (Title V Permit, Section E, Group 01, Condition #030; Group 02, Condition #006). Panther Creek is required to keep enough spare bags on hand in order to be able to immediately

replace deteriorating bags or replace them when required by routine maintenance. (Title V Permit, Section E, Group 01, Condition #031, Group 02, Condition #007). As stated in response to Comment 1 above, the Operating Permit contains monitoring, reporting and recordkeeping requirements and the Department routinely inspects the Facility to ensure that it operates in compliance with permit and regulatory requirements. Noncompliance can subject Panther Creek to a Department enforcement action.

Comment 4: Concern about the impact of the Facility powering Bitcoin mining and opining that the Facility should be permitted as an incinerator. Also stating that the Facility must be operated in a manner that is protective of the environment and neighbors in the community.

Response to Comment 4: As stated above, the protection of public health, welfare and the environment are fundamental to permitting under the Federal Clean Air Act and the Pennsylvania Air Pollution Control Act. The Title V Permit for this Facility incorporates applicable requirements under both of those statutes, as well as the regulations developed under those statutes. For example, the Title V Permit contains emission limits for Filterable Particulate, Filterable PM-10, SO₂, CO, VOCs and NO_x that apply to the CFB Boilers. (See Title V. Permit, Section E, Group 01, Condition # 001). These pollutants are part of the six (6) criteria pollutants (sulfur dioxide [SO₂], particulate matter [PM], nitrogen oxides [NO_x], carbon monoxide [CO], ozone [O₃] and lead [Pb]) for which there are National Ambient Air Quality Standards ("NAAQS").

There are two (2) types of NAAQS for the six (6) criteria pollutants:

- (1) Primary Standards, which are designed to protect human health, taking into consideration sensitive populations, including children, the elderly and individuals with respiratory ailments; and
- (2) Secondary Standards designed to protect public welfare, including effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, property, and climate, as well as effects on economic values and on personal comfort and well-being.

The permit limitations on these pollutants, as well as other limits and requirements in the Title V Permit (e.g. requirements designed to control fugitive emissions (Title V Permit, Section C, Condition #s 001 and 002; Section C, Condition #s 039 and 040; are designed to ensure that the Facility will not cause harmful environmental impacts and a violation of the NAAQS.

There is no indication that the Facility is operating in a manner that violates these standards. Moreover, as stated in response to the other comments above, Panther Creek's Title V Permit contains terms and conditions designed to ensure that the Plant is operating in a manner that is protective of the environment, and the Department inspects the Facility to ensure that it is operating in compliance with its Permits and regulatory requirements.

Comment 5: Commenter is a nearby resident and is concerned about the impact of the operation of the Facility on her two young children. She urges the Department to continuously monitor emissions from the Facility.

Response to Comment 5: The Department understands the Commenter's concerns and refers the commenter to the responses to Comments 1 - 4 above for information on applicable requirements related to emissions from the Facility, as well as how the Department monitors and inspects the Facility.

Comment 6: The commenter has health concerns related to the operation of the Facility.

Response to Comment 6: As the Department states above, it understands the Commenter's concerns and refers the commenter to the responses to Comments 1 - 4 above for information on applicable requirements related to emissions from the Facility, as well as how the Department monitors and inspects the Facility.

Comment 7: The Facility does not qualify as an "Electric Utility Steam Generating Unit," which serves the public good by generating power for the grid. Instead, Panther Creek plans to stop sending electricity from this Facility to the power grid while consuming far more electricity than the plant can generate. The Department must require Panther Creek to reapply for this air pollution permit under a classification that matches its actual use. The Department could consider evaluating whether the plant qualifies as a waste incinerator, which would require the plant to conduct increased heavy metal and air toxics testing. The Department should decide if the absence of any public benefit, grouped with the likely public harm from the Facility, merits denying any permit that does not drastically reduce the Facility's air pollution. Please appropriately regulate this Facility.

Response to Comment 7: The Department understands the commenter's concerns and refers the commenter to the responses to Comments 1- 4 above, and particularly its response to Comment 3.

C. Discharges of Heavy Metals

Comment 8: Commenter urges DEP to test for the heavy metals that could be present in that drainage because of the dumping, and also, that consideration needs to be given to dredging out a "mitigation pond" and making it viable.

Response to Comment 8: Although the focus of this public comment period is on the Air Quality Title V Permit and this comment is related to Water Quality issues, the Department is responding in an effort to address the commenter's concerns.

As stated in response to Comment 2 above, the Facility has a NPDES Permit for Stormwater Discharges Associated with Mining Activities (Permit No. PAM120008C2). (See response to Comment 2 above). That permit contains effluent limits, monitoring requirements and reporting requirements. Those requirements apply to stormwater discharges from the site. The effluent limits in the permit include limits for Total Suspended Solids and Total Settleable Solids. The

permit also contains work practice requirements designed to limit pollutants in stormwater runoff. For example, the NPDES Permit contains the following conditions in Part A1(d):

- (i) The operator may not discharge floating materials, scum, sheen or substances that result in deposits in the receiving water. The operator may not discharge foam, oil, grease, or substances that produce an observable change in the color, state, odor or turbidity of the receiving water. [25 Pa. Code § 92a.41(c)]
- (ii) The operator may not discharge substances in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life. [25 Pa. Code 93.6(a)]

The Facility has stormwater ponds that are regulated under Panther Creek's mining permit. The Department assumes that the commenter's reference to a "mitigation pond" is to one of these stormwater ponds, which are dredged, or cleaned out periodically. While this activity falls outside the scope of the Department's proposed renewal of the Title V Permit, the Department has taken the comment into consideration.

D. Comments in Support

Comment 9: Commenter states that the two main sources, the fluidized bed boilers, are limited to firing waste coal, the Facility's primary fuel, and number two fuel oil, which is typically used to start the two fluidized bed boilers after plant maintenance work or other lapses in service. No other materials, such as tire derived fuel, are included in this permit.

Further, the U.S Environmental Protection Agency and PA DEP require all coal fired electrical generating units to meet Maximum Achievable Control Technology, or MACT standards for their air emissions control systems, which ensure the operation of Panther Creek sources, protect public health with an ample margin of safety, as well as protect against adverse environmental effects.

Panther Creek's air emissions control systems include baghouses, limestone and ammonia feed systems and boiler combustion controls.

Panther Creek has reclaimed more than 250 acres of land since beginning operations in 1988. This includes the reclamation of the huge Nesquehoning coal pile which was a direct air, water, health, safety and environmental hazard to the Borough of Nesquehoning, along with waste coal piles previously located near the Facility.

Panther Creek has also cleaned up over 3.8 billion gallons of acid mine drainage water from Lausanne in Nesquehoning. Panther Creek's reclamation efforts have been the major factor restoring Nesquehoning Creek to allow it to support a healthy trout population. The Nesquehoning Conservation Club first stocked trout in 2005 and the stream has been stocked annually by the Pennsylvania Fish and Boat Commission mission since 2007.

Panther Creek is an 80-megawatt electric generating capacity resource to the PJM interconnection, the grid, accountable and fully dispatchable to PJM. Generally, if not derated or offline for repairs, the plant can supply electricity both to the PJM grid as well as to the data mining site. And like a battery, the plant can quickly switch full power flow from the data mining to the grid during high periods of electrical demand. Panther Creek also provides reactive power and voltage support to First Energy Metropolitan Edison at the point of interconnect. The Facility and its 50 plus employees are dedicated to the protection of Carbon County's natural resources. Thank you.

Response to Comment 9: The Department acknowledges the comments and takes them into consideration along with the other comments received.

Comment 10: Commenter states that Panther Creek has successfully operated under this permit since 1998. The Title V permit regulates emissions from all sources at Panther Creek Power, including those produced through the firing of its primary fuel source, waste coal. Waste coal piles are a significant threat to the environment and public health when abandoned or left to sit out in the open.

Waste coal piles that are not reclaimed cause acid mine drainage, which has the potential to disrupt local infrastructure, pollute our waterways and wreak havoc on the surrounding environment and is incredibly difficult and expensive to rectify. Waste coal also creates a significant risk of large-scale fires that can burn for years on end, devastating surrounding areas and polluting our air. Panther Creek has reclaimed more than 250 acres of land and cleaned up over 3.8 billion gallons of acid mine drainage water from the Lausanne Tunnel in Nesquehoning.

Using waste coal to generate energy is the perfect solution to acid mine drainage and the threat of coal fires: it removes waste coal from an open environment where it poses significant risks and allows the Department to ensure that it is used in a way that protects the environment and the health of the public. Our community also benefits from this permit beyond getting rid of waste coal in an environmentally sound manner; Panther Creek creates jobs and provides reliable baseload power with a capacity of 80MW that can be turned on 24/7 to support the grid. There are limited options for reclaiming piles of waste coal. And not only do facilities such as Panther Creek reclaim waste coal in a way that protects the environment and public health, but they also have a beneficial use for it in the form of power generation.

Response to Comment 10: The Department acknowledges the comments and takes them into consideration along with the other comments received.

E. Fuels and Property Values

Comment 11: Commenter expresses concerns over the burning of dirty coal and tires at the Facility to mine Bitcoin and expresses skepticism over the company's claims that they are cleaning up waste tire piles. Commenter also expresses concerns about the impact the plant is having on property values and states that clean water and air is a human right.

Response to Comment 11: As stated in response to the comments in Sections A and B above,

the Title V Permit contains terms and conditions designed to ensure that the Facility operates in a manner that is protective of the environment and the Department routinely monitors and inspects the Facility to ensure that it is operating in compliance. The TDF Plan Approval contains similar monitoring, recordkeeping and reporting requirements that are also designed to be protective of the environment.

The Department does not directly evaluate potential impacts to local property values in its review of the Title V Permit application. Instead, the Department's decision to issue or deny a permit is based largely on an applicant's satisfaction of all applicable state and federal air quality regulatory requirements and consideration of Article I, Section 27 of the Pennsylvania Constitution. Potential impacts to property values are often best addressed through local land use requirements that regulate where certain activities in a community, such as industrial, residential, commercial and agricultural uses, may be conducted.

F. Environmental Justice and Health Concerns

Comment 12: Commenter expresses concerns about cancer and heart disease rates in Coaldale, Nesquehoning, Lansford and Summerhill, asserting that this area is in an environmental justice area.

Response to Comment 12: With regard to the commenter's health impacts concerns, the Department refers the commenter to the responses to Comments 1 - 4 above. In response to the commenter's environmental justice concern, enhanced public participation during the public comment period is a way the Department addresses environmental justice considerations, which may include holding public hearings and providing opportunities for submitting written public comments. To determine whether enhanced public participation applies, the Department looks at whether the proposed activity or facility is located in an environmental justice area, as well as the nearby Area of Concern. (See Department's Environmental Justice Policy ("EJ Policy"), Rev. January 3, 2026, p. 7). The Area of Concern is defined as, "A geographic area measuring 0.5 miles in all directions from the location of the proposed Enhanced Public Participation Trigger or Opt-In Project." (EJ Policy, p. 2). Although the Department has determined that the radius around the Facility does not intersect an EJ area or Area of Concern, the Department held a public hearing, which is not required under the Air Resources Regulations, and accepted comments from the public during an extended public comment period. Through this process the public in nearby communities was given an opportunity to comment on the permit application. Those comments have been considered by the Department and are addressed in this comment response document.

G. TDF Emissions and Ash

Comment 13: Commenter expresses concern over the potential release of benzene, xylene, ethylene, dioxin and acetone from using TDF, as well as the disposal of ash from the Facility in open pits. Without proper testing and study, local communities will experience environmental and economic damage.

Response to Comment 13: The Department refers the commenter to its responses to Comments 1- 4 above. Additionally, the Facility is subject to all applicable requirements in the National Emission Standards for Hazardous Air Pollutants (“NESHAPS”) for Coal and Oil-Fired Electric Utility Steam Generating Units, in 40 CFR Part 63, Subpart UUUUU. (TDF Plan Approval, Section C, Subsection VII, Condition # 015). These standards establish emission limitations and work practice standards for hazardous air pollutants (“HAPs”) emitted from coal and oil-fired electric utility steam generating units. (40 CFR § 63.9980). It also establishes requirements to demonstrate initial and continuous compliance with the emission limitations. Moreover, the TDF Plan Approval contains emission limits for pollutants such as filterable PM, filterable and condensable PM 10 and PM 2.5, SO₂, NO_x, CO, Fluorides, H₂SO₄ and Lead (Pb).

The Department previously addressed concerns related to the emission of pollutants from the uses of TDF at the Facility in a Comment Response Document for the TDF Plan Approval. In that document, the Department provided responses to Comments 3 and 35 related to potential emissions from TDF combustion based on information provided by Panther Creek. A copy of the Department’s entire Comment Response Document for the TDF Plan Approval is available on the Department’s Northeast Regional Office website at the following website address:

https://files.dep.state.pa.us/RegionalResources/NERO/NEROPortalFiles/CommunityInformation/Panther_Creek/Panther%20Creek%2013-00003B%20Comment%20Response%20Document%20Final%20Signed.pdf

With regard to the commenter’s concern regarding the storage of ash in open pits, the Department directs the commenter to the response to Comments 2 and 5 above and the discussion of Panther Creek’s NPDES Permit. That permit is different than Panther Creek’s Title V Permit and is not part of this permitting action.

Comment 14: Commenter expresses concern over emissions from tire burning, emissions testing and the fact that Panther Elementary School is nearby.

Response to Comment 14: The Department refers the commenter to its response to Comments 1-4 above. Additionally, as stated above, the Title V Permit contains a number of emission limits and restrictions applicable to the different air emissions sources at the Facility. (See Title V Permit Section C, Subsection C-I, Section D, Subsection D-1, Section E, Subsection E-1 and Section F, Subsection F-I). For example, there are permit conditions limiting fugitive emissions, malodors and visible emissions from the Facility. (See Title V Permit Section C, Condition #s 001-005). The diesel generators have limits for Particulate Matter (“PM”), SO₂ and NO_x. (See Title V Permit Section D, Condition #s 001-002 under Source ID DFP (Diesel Fire Pump) and ID EG (Emergency Generator) respectively). The Circulating Fluidized Bed Boilers (“CFBs”) have emissions limits for Filterable Particulate (“FPM”), Filterable PM-10, SO₂, CO, VOCs and NO_x. (See Title V Permit Section E, Condition #001). In addition, as stated above in response to Comment 1, the Title V Permit contains testing, monitoring, recordkeeping and reporting requirements and the Department conducts regular inspections of the Facility to monitor compliance with applicable permit and regulatory requirements.

H. Novel Facility

Comment 15: Commenter states that the Department must acknowledge that Panther Creek is no longer an electricity generating utility and incorporate the applicable Clean Air Act (“CAA”) regulations for its current form. The Operators converted an electric utility into a crypto mining facility, increasing the public’s air pollution burden without any counterbalancing benefits offered by a utility. Yet the Draft Permit does not acknowledge the fundamental change in Panther Creek, still incorporating regulations that are no longer applicable.

As far as we can tell no one has ever contemplated this kind of strategy and data center configuration. It is so novel that there is actually nothing in the PJM and FERC regulations that can be applied towards this structure.” Likewise, the CAA and other federal, state, and local laws were not created in contemplation of such a facility. A facility lay-out such as this that both generates electricity for self-benefit, while also consuming large amounts of energy from the public grid pursues only commercial interests that collaterally worsen the climate crisis and public health.

Panther Creek will contribute to climate change as a major source of pollutants, aggravate public health through the burning of coal culm and tire derived fuel (“TDF”), and displace massive amounts of energy needed by the public. All for its own profit.

There is nothing to offset the adverse impacts identified above, such as local economy boosts or job creation. To grant Panther Creek a Title V renewal permit as if it were not an entirely novel facility is dangerous and would cause serious harm to Pennsylvania’s environment and people.

Response to Comment 15: The Department refers the commenter to the responses to Comments 1-4 above and Comment 17 below. As stated there, the protection of public health, welfare and the environment are fundamental to permitting under the Federal Clean Air Act and the Pennsylvania Air Pollution Control Act. The Title V Permit for the Facility incorporates applicable requirements under both of those statutes, as well as the regulations developed under those statutes. Permit limitations established through the permitting process and associated conditions incorporated into the Title V Permit are designed to ensure that the Plant is operated in a way that protects the environment.

The Panther Creek Facility was constructed using Best Available Control Technology (“BACT”) required under the Federal PSD program. The plant uses limestone injections to control SO₂ and other acid gases, selective non-catalytic reduction (“SNCR”) to control NO_x, and a fabric filter, to control particulate emissions. SO₂, NO_x and CO emissions are monitored by the use of continuous emission monitors (“CEMS”). The use of the currently installed baghouses to control particulate emissions satisfies the Department’s Best Available Technology (“BAT”) requirements.

Panther Creek has been certified as a Low Emitting Electrical Generating Unit (“LEE”) for Filterable Particulate Matter. This required Panther Creek to conduct twelve individual stack tests, one every quarter for three years, and show emissions less than 50% of the federal standard in each test. The federal standard is 0.03 lb./MMBtu; therefore, emissions must be below 50% of

that standard, or 0.015 lb./MMBtu. The average of the twelve tests was 0.0063 lb./MMBtu, 21% of the emission limit, and only 42% of the LEE standard.

Further, PAHs, which are products of incomplete combustion, and not expected to be found in high concentrations in a well-controlled boiler, particularly a CFB such as at Panther Creek, which are the most efficient of the coal burners due to the long residence time of the fuel in the boiler.

Both the Title V Permit and the TDF Plan Approval impose requirements on Panther Creek that are consistent with the Federal Clean Air Act, the Air Pollution Control Act and that are designed to protect public health, safety, welfare and the environment.

I. No Environmental Benefit

Comment 16: The Department should make its permitting decision based on properly received comments from all parties. Carbon County does not benefit from the removal of waste coal by the power plant because the plant does not remove culm banks from Carbon County. The plant imports the waste coal from outside the county. Instead, the County receives the air and water pollution but no environmental benefit from the operation of the plant. Moreover, ash from the plant is disposed of in such a way that it degrades water resources. Furthermore, according to recent SEC filings (Commission File No. 001-40931), the plant will no longer produce electricity for the grid, which means the plant should not be classified as a power generator but rather as a waste incinerator.

Response to Comment 16: Panther Creek operates an electrical generating Facility using recovered anthracite culm/refuse, and TDF at times, as fuel for their existing two (2) permitted CFBs, each having a rated Heat Input of 600 MMBTU/hr., as well as associated equipment. While in recent years, the Facility has dedicated a certain percentage of its power generation to an onsite cryptocurrency operation, the Department's understanding is that it continues to produce power for the electrical grid upon PJM demand. The use of power from Panther Creek to power servers used for mining cryptocurrency is not a basis for denying the permit application. Panther Creek submitted a renewal permit application to the Department, which was reviewed for compliance with applicable requirements.

The Department's renewal of the Title V Permit is consistent with applicable statutory and regulatory requirements. These requirements, as well as the considerations undertaken by the Department during its review of the Permit application and comments received during the public comment period and public hearing, and inclusion of the terms and conditions in the Title V Permit renewal, satisfy Article I, Section 27 of the Pennsylvania Constitution.

With regard to impacts to water resources, the permitting action at issue is the Department's renewal of the air quality Title V Permit, as opposed to a water permit. With that said, the Department's directs the commenter to its response to Comments 2 and 5 above. Moreover, the removal of waste coal piles, whether they are located inside or outside of Carbon County, benefits the watershed and water resources on a broader scale by eliminating old coal refuse sites that leach contaminants into water resources.

In terms of classifying the plant as an EGU, as opposed to an incinerator, EGU's may only combust legitimate fuels to be regulated under the Mercury and Air Toxics ("MATS") rule, which is the core EPA rule regulating hazardous air pollutants ("HAPs") from these sources. EGU's combusting waste materials are subject to Clean Air Act Section 129 rules for Commercial and Industrial Solid Waste Incineration ("CISWI") units. The fuels approved for use at Panther Creek, (waste coal, TDF, and distillate oil) are all legitimate fuels as defined by EPA regulations and are thus subject to the MATS rule.

FINAL DETERMINATION

Pursuant to 25 Pa. Code Chapter 127, all comments submitted during the public comment period have been reviewed, considered and are appropriately addressed in this document. The Department has determined that, after consideration of all comments received, the available information indicates that Panther Creek Power Operating, LLC's request to renew the Title V Permit will meet the emission limitations and conditions set forth in the Facility's Title V Permit and will comply with all applicable State and Federal air quality regulatory requirements.

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