

ENVIRONMENTAL RECORD OF DECISION FOR CHAPTER 105 APPLICATIONS

Permittee: Homer City Generation LP **Application ID No.:** E3206225-004

APS ID No.: 1149646

Permit Description: To temporarily impact 0.86 acre of PEM wetland, permanently impact 1.6 acres of PEM/PFO wetland areas, and 162.35 feet of UNT Cherry Run having a contributory drainage area of less than 100 acres for the construction of a natural gas fired power plant, including site grading for construction staging and laydown areas, relocation of an existing water treatment plant, and power generation units on the former Homer City Generation coal fired power plant property southwest of Homer City (Indiana, PA Quadrangle N: 40.517958°; W: -79.196697°) in Center and Blacklick Townships, Indiana County.

Mitigation for federally jurisdictional wetland impacts is through purchase of credits from First Pennsylvania Resource, L.L.C. (MB9915-0001) at the Laurel Hill Creek Mitigation Bank (MB990556-0001) in Service Area 19. The permittee has met the compensatory mitigation requirements for non-federally jurisdictional resource impacts through the purchase of credits through the Pennsylvania Integrated Ecological Services, Capacity Enhancement and Support (PIESCES) Program. Temporary wetland impacts are to be protected using temporary wetland pads and restored following construction activities.

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|---|---|-----|---|-----------|---|----------|
| <input checked="" type="checkbox"/> Approval | Reviewer Initials | CRF | Initial Review | 1/16/2026 | Review Complete | 3/6/2026 |
| <input type="checkbox"/> Denial | | | | | | |
| <input type="checkbox"/> Withdrawal | | | | | | |
| Final Wetland Area Impacted: | 2.46 acres (0.86 acres temporary/1.6 acres permanent) | | Wetland Area Replacement/ Fund Payment/Bank Credits: | | 0.26 credits at Laurel Hill Creek Mitigation Bank/13.89 credits from PIESCES purchase | |
| Initial Proposed Wetland Impact: | 2.46 acres | | | | | |
| Length of Channel Impacted: | 162.35 (Waiver 2) | | Stream Mitigation/Fund Payment/Bank Credits: | | N/A | |
| Initial Proposed Length of Impact: | 162.35 LF | | | | | |

Sources Utilized for Review

| | | |
|---|--------------|---------------|
| 1. Quad Sheet <u>Indiana</u> | N: 40.517453 | W: -79.200056 |
| 2. National Wetlands Inventory Map | Y | |
| 3. Chapter 93 - Special Protection Watersheds Map | Y | |
| 4. Scenic Rivers Candidates Map | Y | |
| 5. Coastal Zone Management Map | N | |
| 6. County Soil Survey | Y | |
| 7. P.N.D.I. (Search Area: PNDI-837785)..... | Y | |

Other Agencies' Reviews and Comments

| | Support / No Support / No Comment | Date |
|---|-----------------------------------|------------|
| 1. Pennsylvania Fish & Boat Commission | Comment | 12/18/2025 |
| 2. Pennsylvania Game Commission | No Comment | |
| 3. Pennsylvania Dept of Conservation & Natural Resources..... | No Comment | |
| 4. U.S. Fish & Wildlife Service | No Comment | |
| 5. U.S. Army Corps. of Engineers | Support | 12/19/2025 |
| 6. Pennsylvania Historical & Museum Commission | No Comment | |
| 7. National Marine Fisheries | No Comment | |
| 8. Environmental Protection Agency | No Comment | |
| 9. Environmental Review Committee..... | No Comment | |
| 10. Other: <u></u> | | |

** If "No Support" is indicated, provide explanation of how comments were addressed:

105.14(b) -- Review of Application

| | |
|---|---|
| 1. Potential threats to life or property | No Impact Anticipated |
| 2. Potential threats to safe navigation | No Impact Anticipated |
| 3. Riparian rights above, below or adjacent to project | No Impact Anticipated |
| 4. Effect on regimen and ecology of: Watercourse or body of water | No Impact Anticipated |
| Exceptional Value Wetlands | No Impact Anticipated |
| Stocked Trout Stream | No Impact Anticipated |
| Wild Trout Stream | No Impact Anticipated |
| Threatened or Endangered Species ... | No Impact Anticipated |
| Other Species of Special Concern | No Impact Anticipated |
| 5. Impacts to: Natural areas, wildlife sanctuary/refuge | No Impact Anticipated |
| Park or recreation area | No Impact Anticipated |
| Cultural, archaeological, landmark, or historical site | No Impact Anticipated |
| Public water supply | Existing public water supply infrastructure related to prior coal fired power plant |
| 6. Compliance with applicable laws (DEP, PAFBC, ...) | No Impact Anticipated |

| | | |
|-----|---|--|
| 7. | Water dependency of the project | Water required as part of cooling operations |
| 8. | Effects of future development | No Impact Anticipated |
| 9. | Consistency with: State and local floodplain and stormwater programs ... | No Impact Anticipated |
| | State Water Plan | No Impact Anticipated |
| | Coastal Zone Management Plan | N/A |
| 10. | Consistency with designations of wild, scenic, and recreational streams ... | No Impact Anticipated |
| 11. | Consistency with antidegradation requirements (Chapters 93, 95, 102) ... | No Impact Anticipated |
| 12. | Secondary impacts associated with the project | No Impact Anticipated |
| 13. | Impact to wetland functions and values | No Impact Anticipated with mitigation |
| 14. | Cumulative impacts of this project and other projects (existing/proposed) | No Impact Anticipated |

Notes: _____

Chapter 105 Subchapters Utilized:

| | | |
|-------|--|--------|
| C. | Culverts and Bridges ... 105.141 | Y |
| D. | Stream Enclosures ... 105.81 | N |
| E. | Channel Changes / Dredging For Construction / Maintenance ... 105.221 | Waiver |
| F. | Fills, Levees, Floodwalls and Streambank Regaining Devices ... 105.251 | Waiver |
| G. | Stream Crossings, Outfalls and headwalls ... 105.291 | N |
| H. | Docks, Wharves and Bulkheads ... 105.321 | N |
| I. | Commercial Dredging ... 105.361 | N |
| J. | Discharges of Dredged or Fill Material ... 105.391 | Y |
| Other | Other Regulations Utilized (Chapter 106, ...) | N |

§105.18a. Permitting of Structures and Activities in Wetlands. EV Wetlands (105.18a(a)).

(a) *Exceptional value wetlands.* Except as provided for in subsection (c), the Department will not grant a permit under this chapter for a dam, water obstruction or encroachment located in, along, across or projecting into an exceptional value wetland, or otherwise affecting an exceptional value wetland, unless the applicant affirmatively demonstrates in writing and the Department issues a written finding that the following requirements are met.

Indicate criteria(s) that makes the wetland Exceptional Value 105.17:

- | | | |
|--|---|---------------------------------------|
| <input type="checkbox"/> Natural or wild areas | <input type="checkbox"/> Wild or scenic river | <input type="checkbox"/> EV Watershed |
| <input type="checkbox"/> Public water supply | <input type="checkbox"/> Threatened or endangered species | |
| <input type="checkbox"/> Wild trout stream | <input type="checkbox"/> Threatened or endangered species habitat | |

Describe the function(s) and/or value(s) of this Exceptional Value wetland:

N/A

105.18a(a)(1) -- Is there adverse impact to the exceptional value wetland's functions or value in accordance with 105.14(b)? N/A
 105.18a(a)(1) -- Is there adverse impact to the exceptional value wetland's functions or value in accordance with 105.15? N/A
 Explain: _____

105.18a(c) – The Department will not grant a permit under this chapter for a dam, water obstruction or encroachment with has a significant adverse impact on a wetland unless the applicant affirmatively demonstrates and the Department finds in writing that a project is necessary to abate a substantial threat to the public health or safety and that the requirements of subsection 1045.18a(b)(2) – (7) are met.

Has significant adverse impact to the wetland been found under 105.18a(b)(1)? No

Has the applicant demonstrated that the project is necessary to abate a substantial threat to the public health or safety? N/A

Does the Department concur that the project is necessary to abate a substantial threat to the public health or safety? N/A

Explain the Department's concurrence in detail:
 N/A

* -- Proceed to 105.18a(b)(2) - (7) if there is significant adverse impact to the wetland and the Department finds in writing above that a project is necessary to abate a substantial threat to the public health or safety.

or

* -- Continue through 105.18a(a) if there is not significant adverse impact to the wetland.

105.18a(a)(2) -- Does the project require access or proximity to or siting within the EV wetland to fulfill its basic purpose (water dependency)? N/A
 Explain: _____

105.18a(a)(3) – Is there a practicable alternative to the proposed project that would not involve a wetland or that would have less adverse impact on the wetland, and that would not have other significant adverse impacts on the environment? N/A

An alternative is practicable if it is available and capable of being carried out after taking into consideration construction cost, existing technology and logistics. An area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed to fulfill the basic purpose of the project shall be considered as a practicable alternative.

List the practicable alternatives considered and rationale that the least damaging alternative to the exceptional value wetland has been selected:

N/A

105.18a(a)(4) – Will the project cause or contribute to a violation of an applicable State water quality standard? N/A
 Explain:

105.18a(a)(5) – Will the project in the exceptional value wetland cause or contribute to the pollution of groundwater or surface water or diminution or resources sufficient to interfere with their uses? N/A
 Explain:

105.18a(a)(6) – Will the cumulative effect of this project and other projects result in the impairment of the Commonwealth’s exceptional value wetland resources? N/A
 Explain:

105.18a(a)(7) – Has the applicant produced a plan that will replace the affected wetland in accordance with 105.20a (relating to wetland replacement criteria)? N/A
 Explain:

105.18a(a) Summary: EV Wetlands

N/A

§105.18a. Permitting of structures and activities in wetlands. Other Wetlands. 105.18a(b)

(b) *Other Wetlands.* Except as provided for in subsection (c), the Department will not grant a permit under this chapter for a dam, water obstruction or encroachment in, along, across or projecting into the wetland which is not an exceptional value wetland, or otherwise affecting the wetland, unless the applicant affirmatively demonstrates in writing and the d- issues a written finding that the following requirements are met:

What are the functions and values of this wetland?

Explain: As reported by the consultant, none of the wetlands have function for recreational opportunities since they are located on private property. The consultant further reports:

W-20-PEM and W-44-PEM: have minimal function for nutrient cycling or water quality improvements since they are isolated wetlands located on the former Homer City Generating Station Site and dominated by invasive species. Some smaller mammals and avian species may use the wetlands as resting habitat.

W-21-PEM, W-22-PEM, W-23-PEM, W-27-PEM, W-28-PEM, W-29-PEM, W-30-PEM: have no function for floodwater storage, and minimal to no function for nutrient cycling, water quality improvements, or habitat for wildlife.

W-26A-PEM: has no function for floodwater storage since it is located up-slope of S-20 (watercourse). There is minimal function for nutrient cycling or water quality improvements due to its small size and location on the former Homer City Generating Station Site. Some smaller mammals and avian species may use the wetland as resting habitat since it is part of W-26b (PFO).

W-26B-PFO: has no function for floodwater storage since it is located up-slope of S-20 (watercourse). This wetland is small therefore, there is minimal function for nutrient cycling, water quality improvements, or wildlife habitat.

W-38A-PEM: minimal function for flood storage, nutrient cycling, or water quality improvements. Some smaller mammals and avian species may use the wetland as resting and nesting habitat.

105.18a(b)(1) – Will the project have a significant adverse impact on the wetland, as determined in accordance with §§105.14(b)? No

105.18a(b)(1) – Will the project have a significant adverse impact on the wetland, as determined in accordance with §§105.15? No
 Explain: The EA has demonstrated that the project will not have significant adverse impacts on the wetlands. These wetlands exhibit prior disturbance or environmental pressures and are not unique to the area.

105.18a(b) – A determination of significantly adverse wetland impact includes the following:

105.18(b)(1)(i) –Is the aerial extent of the wetland impacts significantly adverse? No
 Explain: The basic project purpose cannot be accomplished with further impact reduction. Alternatives analysis documents reduction of final impacts.

105.18a(b)(1)(ii) – Is the impact to the wetland’s values and functions significantly adverse? No
 Explain: Wetlands exhibit prior disturbance or environmental pressures. Most proposed wetland impacts received poor to marginal CI Scores.

105.18a(b)(1)(iii) – Are the affected wetlands values and functions unique to the area or region? No
 Explain: No unique wetland values or functions were identified.

105.18a(b)(1)(iv) – Are there negative comments from other State and Federal environmental agencies concerning the scope and effect of the impact?
 Explain: No

105.18a(c) – The Department will not grant a permit under this chapter for a dam, water obstruction or encroachment with has a significant adverse impact on a wetland unless the applicant affirmatively demonstrates and the Department finds in writing that a project is necessary to abate a substantial threat to the public health or safety and that the requirements of subsection 1045.18a(b)(2) – (7) are met.

Has significant adverse impact to the wetland been found under 105.18a(b)(1)? No

Has the applicant demonstrated that the project is necessary to abate a substantial threat to the public health or safety? N/A

Does the Department concur that the project is necessary to abate a substantial threat to the public health or safety? N/A

Explain the Department’s concurrence in detail:
N/A

105.18a(b)(2) – Have adverse impact to the wetland been avoided or reduced to the maximum extent possible? Yes
 Explain: Alternatives analysis documents avoidance and minimization where possible.

105.18a(b)(3) – Is there a practicable alternative to the proposed project that would not involve a wetland or that would have less adverse impact on the wetland, and that would not have other significant adverse impacts on the environment? No

An alternative is practicable if it is available and capable of being carried out after taking into consideration construction cost, existing technology and logistics. An area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed to fulfill the basic purpose of the project shall be considered as a practicable alternative.

105.18a(b)(3)(i) – It shall be rebuttable presumption that there is a practicable alternative, not involving a wetland, to a nonwater-dependent project, **and** that the alternative would have less adverse impact on the wetland. There is a practicable alternative and is the project a nonwater-dependent project (a project is water-dependent when the project requires access or proximity to or siting within the wetland to fulfill the basic purposes of the project)? N/A

105.18a(b)(3)(ii) – To rebut the presumption, and applicant for a permit under this chapter shall demonstrate with reliable and convincing evidence and documentation and the Department will issue a written finding that the following statements are true:

105.18a(b)(3)(ii)(A) – Has the applicant demonstrated with reliable and convincing evidence and documentation that the basic project purpose cannot be accomplished utilizing one or more other sites that would avoid, or result in less, adverse impact on the wetland? Yes
 Explain: Since the project is to repurpose an existing coal fired power plant, some of the existing infrastructure will be utilized and resource impacts are primarily to wetlands with prior environmental stressors. The alternatives analysis demonstrates that remediation and redevelopment involves fewer impacts with lower function/value than new development in areas without existing infrastructure.

105.18a(b)(3)(ii)(B) – Has the applicant demonstrated with reliable and convincing evidence and documentation that a reduction in the size, scope, configuration or density of the project as proposed and alternative designs to that of the project as proposed that would avoid, or result in fewer or less severe, adverse impacts on a wetland will not accomplish the basic purpose of the project? Yes
 Explain: Applicant has documented that impacts have been reduced to the maximum extent possible and that resources further from the existing industrial area exhibit fewer environmental stressors.

105.18a(b)(4) – Will project cause or contribute to a violation of an applicable State water quality standard? No
 Explain: No potential violations identified

105.18a(b)(5) – Will project cause or contribute to pollution of groundwater or surface water resources or diminution of the resources sufficient to interfere with their uses? No
 Explain: No effects identified

105.18a(b)(6) – Will the cumulative effect of this project and other project result in a major impairment of this Commonwealth’s wetland resources? No
 Explain: Proposed resource impacts are primarily poor to marginal condition, with mitigation compensation proposed.

105.18a(b)(7) – Has the applicant produced a plan that will replace the affected wetland in accordance with 105.20a (relating to wetland replacement criteria) Yes
 Explain: Mitigation for resource impacts is through the purchase of mitigation bank credits and PIESCES in-lieu fee program credits. Mitigation for federally jurisdictional wetland impacts will utilize credits reserved at an approved Mitigation Bank. Mitigation for impacts to non-federally jurisdictional resources are proposed to be offset through the PIESCES in-lieu fee program.

105.18a(b) Summary: Other Wetlands
Proposed resource impacts are primarily poor to marginal condition, with mitigation compensation proposed. Avoidance measures have been demonstrated.

Water Resources Impacts Other Than Wetland – 105.16 (streams, ponds and floodways).

105.16(c) -- An application for a permit will not be approved by the Department in the following areas unless the applicant demonstrates and the Department finds that the project will not have an adverse impact upon the public natural resources:

- (1) A project located in or within 100 feet of a watercourse or body of water that has been designated as a National or State wild or scenic river in accordance with the Wild and Scenic Rivers Act of 1968 (16 U.S.C.A §§1271 – 1287) or the Pennsylvania Scenic Rivers Act (32 P.S. §§820.21 – 820.29).
- (2) A project located in or within 100 feet of a Federal wilderness area designated in accordance with the Wilderness Act (16 U.S.C.A. §§1131 – 1136) or the Federal Eastern Wilderness Act of 1975 (16 U.S.C.A. §1132).
- (3) A project located within an area which serves as a habitat of a threatened or endangered species protected by the Endangered Species Act of 1973 (7 U.S.C.A. §136; 16 U.S.C.A §§4601-9, 460k-1, 668dd, 715i, 715a, 1362,1371,1372, 1402 and 1531 – 1543) or for a species which has been designated as a threatened or endangered species under the Wild Resource Conservation Act (32 P.S. §§5301 – 5314), 30 Pa. C.S. (relating to the Fish and Boat Code) or 34 Pa. C.S. (relating to the Game and Wildlife Code).
- (4) A project located in waters designated as exceptional value in Chapter 93 (relating to water quality standards).

| | |
|--|----|
| Is the project located in or within 100 feet of a National or State designated wilds or scenic river? | No |
| Is the project located in or within 100 feet of a Federal wilderness area? | No |
| Is the project located within an area that serves as habitat of Federal or State threatened or endangered species? | No |
| Is the project located in Chapter 93 Exceptional Value Watershed? | No |

If yes to any of the above 105.16(c) resources, has the applicant demonstrated that the project will not have an adverse impact upon that public natural resource. N/A

Explain: N/A

§105.16 Environmental, Social and Economic Balancing.

- (a) If the Department determines that there may be an impact on natural, scenic, historic or aesthetic values of the environment, the Department will consult with the applicant to examine ways to reduce the adverse environmental impact. If, after consideration of mitigation measures, the Department finds that the adverse environmental impact will occur, the Department will evaluate the public benefits to the project to determine whether the public benefits outweigh the environmental harm.
- (b) An application for a permit for a structure or activity which the Department determines will have an adverse impact on the environment or public natural resources will not be approved by the Department unless the applicant demonstrates and the Department finds that the public benefits of the proposed project outweigh the harm to the environment and public natural resources. Public benefits include, but are not limited to:
 - (1) Correction and prevention of pollution.
 - (2) Protection of public health and safety.
 - (3) Reduction of flood damages.
 - (4) Development of energy resources.
 - (5) Creation or preservation of significant employment.
 - (6) Provision of public utility services.
 - (7) Other essential social and economic development which benefits a substantial portion of the public.

* -- Is there any impact upon the natural , scenic , historic , or aesthetic values of the water resources?
 Explain: N/A

* -- Is there any adverse impact upon the natural , scenic , historic , or aesthetic values of the water resource?
 Explain: N/A

105.16(a) – If there is an adverse impact to the natural, scenic, historic or aesthetic values of the environment, did the Department consult with the applicant to examine ways to reduce these adverse environmental impacts? N/A
 Explain:

If, after consideration of mitigation measure, is there still adverse environmental impact anticipated? N/A
 Explain:

105.16(b) – Has the applicant demonstrated that the public benefits of the proposed project outweigh the harm to the environment? Yes
 Explain: The purpose of the project is to repower a decommissioned power plant in order to fulfill the demand for regional power supply.

105.16(d) – In reviewing permit applications, it will be the policy of the Department to encourage activities that protect the natural condition of the watercourses or other body of water. Has the applicant been encouraged to protect the natural condition of the watercourses or other body of water? Yes
 Explain: A technical deficiency letter was issued 1/16/26 requesting additional detail to assure adequate protection of resources.

105.16 Summary: Streams, Ponds, Floodways

162.35 feet of stream channel impact on a stream channel with a drainage area less than 100 acres.

Review of Application

Discussion:

“The Pennsylvania Fish and Boat Commission (PFBC) recommends that the applicant provide additional information on the proposed water intake updates. This information should include detail on the new screen such as size and through screen velocities. The PFBC is also interested in further detail on the fish return system. “All activities associated with modifications of the intake facility regulated under Chapter 105 should be included in this permit application.” *The department has requested additional details on the intake updates (Technical Deficiency Item #1). 1/30/2026 Technical Deficiency Response from HDR reiterates that no changes to the geometry, structure, dimensions, and flow rates are proposed. 3/2/26 response shows that the fish return will not be part of the water intake. No changes to the structure within in Two-Lick Creek or lagoon are proposed.

“The PFBC is concerned about the lack of a single and complete project for the buildout of the greater Homer City power generation facility, data center facility construction and subsequent utility and road infrastructure upgrades. This will make accurate accounting of cumulative impacts to aquatic resources challenging and increases the difficult in ensuring appropriate compensatory mitigation is provided. The PFBC acknowledges the current approach for this application to split compensatory mitigation between purchase of credits from an established mitigation bank and payment into the state in-lieu fee program or PIESCES. However, the PFBC recommends that the Department of Environmental Protection encourage the applicant to seek out opportunities to construct a local permittee responsible mitigation site that will comprehensively restore hydrologic and biological functions of a stream and wetland system to offset impacts to aquatic resources that are proposed. Permittee responsible mitigation will help to offset concerns with temporal loss of aquatic resources as the PFBC is unaware of current proposals to utilize In-Lieu Fee payments for a restoration project in this region.” *A cumulative impact assessment of past and future project proposals was included in the Environmental Assessment. Purchase of credits from an established mitigation bank and payment into the state in-lieu fee program (PIESCES) are currently both accepted mitigation methods and the required documentation has been submitted. The Division of Wetlands, Encroachments and Training (DWET) in the Bureau of Waterways Engineering and Wetlands (BWEW) has established that DEP’s In Lieu Fee program is a legal and viable approach for applicants to meet their compensatory mitigation requirements in accordance with the definition of mitigation. The definition of “mitigation” found at 25 Pa. Code § 105.1 can be read to allow monetary compensation as a part of mitigation. The Department has interpreted “substitute resources” as monetary payments provided those payments were dedicated to “replacing the environment impacted by the project.” A mitigation plan for an application under 105.13(d)(1)(ix) could include payment of compensation toward mitigation activities. This provision for “substitute resources” is only applicable where the impact cannot be eliminated, minimized or reduced by the exercise of clauses (A)-(C) of the definition of mitigation. In addition, mitigation is also referenced in Section 105.16: “If, after consideration of mitigation measures, the Department finds that the adverse environmental impact will occur, the Department will evaluate the public benefits of the project to determine whether the public benefits outweigh the environmental harm.” 1/30/2026 Tech Deficiency Response from HDR responds to public comments, indicating that they have identified a mitigation bank closer to the project area; this was unnecessary though acceptable, but they have not provided a letter of reservation from the mitigation bank. Kim Bartos, in a phone call 2/26/2026, indicated that they have the new commitment letter and she will provide by 2/27/2026. *Commitment letter provided in 2/27/26 TD response.

Proposed impacts to Wetland W38a (a portion of hydrology from groundwater) do not address potential loss of hydrology to remaining, unimpacted wetland area. 1/30/2026 Technical Deficiency Response to Item #2 indicates that the hydrology in this wetland is significantly disturbed, reiterates multiple hydrology sources, and shows that the wetland may have previously been a stream channel prior to disturbance, indicating that loss of hydrology is unlikely.

S2. Resource Identification – Several Wetland Determination Data Forms were completed incorrectly, most notably on the SOIL worksheets. STP-02 – Hydric Soil Indicator F3 was marked but soils described do not meet this indicator (though they are likely problematic so would not affect wetland determination); STP-04 – soils described meet F6 but marked No for hydric soil (would not change wetland determination due to lack of hydrology and hydrophytic vegetation); STP-05 – indicator F3 was marked but profile shown does not meet this indicator (likely problematic soils due to location within stormwater basin); STP-42 – marked Yes for presence of surface water, water table and saturation but No for hydrology present and checked F6 indicator but profile does not meet (soils indicated as significantly disturbed which may make vegetation problematic – this could potentially increase reported wetland impact area); STP-47 – marked A11 and F3 but soil profile only meets F6 (doesn’t affect wetland determination); STP-48 – marked F7 but profile does not meet an indicator (problematic soil so wetland determination would not change); STP-52 – soil profile meets F6 but marked F3 (does not change wetland determination and no impacts); STP-69 – marked F3 but depletion doesn’t start until 12” (doesn’t change wetland determination); STP-73 – 50/20 rule applied incorrectly on vegetation worksheet, calculations shown meet hydrophytic vegetation but box marked No, and F3 marked on soils worksheet but hydric soil marked No (may increase reported wetland impact area if hydrology is problematic or missed secondary hydrology indicators, should check for FAC neutral and Geomorphic Position); STP-77 – due to the presence of hydric soils and wetland hydrology, vegetation worksheet should consider the presence of *Lonicera morrowii* as problematic as its removal makes this plot meet hydrophytic vegetation. Additionally, STP-77 is described in the photo logs as both an upland plot and a wetland plot. *1/30/2026 Technical Deficiency Response from HDR: Item #4 – errors on Wetland Determination Data Forms have been fixed and no resource boundary adjustments are required.

Alternatives Analysis does not provide adequate documentation of avoidance and minimization and alternative siting (Technical Deficiency Item #5). 1/30/2026 Technical Deficiency Response from HDR: Item #5 – Alternatives Analysis now demonstrates locations of alternative siting considerations with table clearly showing impact reduction. Justification for Laydown Areas provided on new plan sheets depicting alternative configurations.

Wetland restoration methods for temporary wetland impacts call for decompaction and supplemental topsoil without a mechanism for determining soil need. If the wetland loses hydrology due to supplemental soil, this may constitute fill. 1/30/2026 response to Technical Deficiency Item #6 reiterates timber mat discussion and poor quality wetland communities but does not address that supplemental soil needs may vary among wetlands. A mechanism for determining supplemental needs on a case by case basis was discussed on 2/26/26 phone call with Kim Bartos. Special conditions are recommended to address post crane mat removal prior to restoration and post remediation monitoring

Proposed impacts to Wetland W-44 for construction of stormwater basin and laydown area. It is unclear why area not impacted by stormwater cannot be restored (Technical Deficiency Item 7). 1/30/2026 Technical Deficiency Response from HDR: Item #7 – response clarifies that the sediment trap in Laydown F will be excavated to a depth of 5-feet and remain in operation for 5-years; due to the disturbed nature of W-44 mitigation considered only reliable replacement.

Public comments received include the following generalized sentiments: 1. a desire to keep mitigation within the Black Creek Watershed, 2. objection to the extent of proposed wetland impact, 3. general mistrust of fracking/gas industry, 4. request for public hearing, 5. concern for tailrace fisheries, 6. evaluation of cumulative effects, and 7. ensuring transparency.

-1. While mitigation within the watershed of impact is preferred, the applicant has proposed mitigation utilizing methods approved by PADEP. DEP is obligated to make sure any proposed compensation is adequate, technically feasible, follows the most current environmental science and principles and is likely to provide outcomes that will be self-sustaining. DEP cannot necessarily force an application to purchase bank credits over ILF credits, but we can ensure the technical veracity of any proposed plan is adequate regarding PRM. Banking has a process to ensure comprehensive restoration projects and DEP is conducting its work through the ILF to same set of standards. 2. The applicant has demonstrated avoidance and minimization measures as well as assessments indicating impacts to lower quality wetlands; however, we are requesting further information to more clearly define alternative. 3. Outside of the scope of regulations. 5. The tailrace fishery on Two-Lick Creek is over 7-miles upstream from the project area. 6. Evaluation of cumulative effects was addressed in the pre-application phase, and the applicant has provided a description of related projects for analysis. 7. The application was posted in the public bulletin, and public comments are being addressed.

Special Conditions:

- The Department has determined that the Permittee has made arrangements to satisfy their compensatory mitigation requirements for 13.89 wetland credits through the purchase of 13.89 wetland credits from the Pennsylvania In Lieu Fee (PIESCES) Program approved for use in Compensation Service Area 18. Within 60 days from the date of issuance of this permit, the Permittee shall provide a check in the amount of \$152,790.00 made payable to the National Fish and Wildlife Foundation, Memo Line: PA ILF Program to the Department. Failure to provide and successfully deposit of such a check shall violate the terms and conditions of this permit. This failure may result in the modification, suspension, or revocation of this permit, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
- The Department has determined that the Permittee has satisfied the compensatory mitigation requirements for 0.26 wetland credits through the purchase of 0.26 wetland credits from the approved compensatory mitigation provider First Pennsylvania Resource, L.L.C. (DEP File No.: MB9915-0001) approved for use in Compensation Service Area 19. Within 60 days from the date of issuance of this permit, Permittee shall provide to the Department proof of transfer of the approved credit amounts and types and First Pennsylvania Resource, L.L.C.'s acceptance of liability to provide the compensatory mitigation requirements. Failure to provide such proof of transfer of credits and First Pennsylvania Resource, L.L.C.'s acceptance of liability of compensatory mitigation requirements shall violate the terms and conditions of this permit. This failure may result in the modification, suspension or revocation of this permit, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
- Upon removal of the timber mats from the temporarily impacted wetland areas, the permittee shall have a qualified wetland specialist prepare a site-specific report showing the condition following removal of the timber mats, and a description of the recommended restoration effort proposed. The report and restoration plan shall be submitted to the Department for review and approval prior to commencing restoration activities.
- The permittee shall monitor the efficacy of wetland restoration efforts on all temporary wetland impacts approved with this permit for at least five years after the removal of timber mats, unless otherwise approved by the Department in writing. All temporary wetland impacts shall be restored to the original contours and replanted with indigenous plant species.

The permittee shall conduct a minimum of one inspection per year during the growing season.

A written Restoration Monitoring Report shall be prepared for each inspection conducted during the monitoring period and submitted within 30 days to the Department of Environmental Protection, Attention: Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335.

Unless instructed otherwise in writing from the Department, the permittee shall provide the following minimum information in the written Restoration Reports:

- An inventory of the surviving plant species and percent aerial coverage
- An assessment of wetland hydrology as compared to pre-impact conditions
- Photographs of the restored wetlands with plans showing the location and orientation of each photograph
- A written plan to correct any deficiencies identified during the monitoring phase
- Demolition or excavated materials shall not be deposited in any wetland, watercourse, floodway, floodplain or other body of water without applying for and receiving the written permit of the Department of Environmental Protection.
- Water pumped from the construction area shall be diverted into a sediment trap or basin, or into an appropriate vegetated filter area to prevent sediment from being discharged into any waters of the Commonwealth.
- This permit does not relieve the permittee of the responsibility to comply with all applicable local codes and ordinances, including floodplain and stormwater management.
- The permittee and his agents will be watchful for archaeological artifacts and will assure the ground disturbance activities will cease immediately upon discovery of archaeological artifacts, and immediately notify the DEP Regional Office and the Pennsylvania Historical and Museum Commission at P. O. Box 1026, Harrisburg, PA 17120-10261, telephone 717-783-8947.