

ENVIRONMENTAL RECORD OF DECISION FOR CHAPTER 105 APPLICATIONS

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

APS ID No.: 1149646

Permit Description: To amend E3206225-004 to correct the impact assignment of Wetland W-22, a 0.02 acre non-federally jurisdictional wetland which was originally shown in the application as a temporary impact, to be a permanent impact. The revised wetland impacts for the project are approximately 0.85 acre temporary and 1.61 acres permanent. Mitigation for project impacts remains as purchase of credits from First Pennsylvania Resource LLC (MB9915-001) at the Laurel Hill Creek Mitigation Bank (MB990556-0001) in Service Area 19 for federally jurisdictional impacts and through purchase of credits through the Pennsylvania Integrated Ecological Services Capacity Enhancement and Support (PIESCES) Program for non-federally jurisdictional wetland impacts.

☒ Approval	Reviewer Initials	CRF	Initial Review	6/16/2026	Review Complete	6/17/2026
☐ Denial						
☐ Withdrawal						
Final Wetland Area Impacted:	1.61 acres perm/0.85 acres temp	Wetland Area Replacement/ Fund Payment/Bank Credits:	14.13 PIESCES credits/0.26 Bank credits			
Initial Proposed Wetland Impact:						
Length of Channel Impacted:	162.35	Stream Mitigation/Fund Payment/Bank Credits:	N/A			
Initial Proposed Length of Impact:						

Sources Utilized for Review

1. Quad Sheet	Indiana & Bolivar	N: 40.517702	W: -79.197619
2. National Wetlands Inventory Map		Y	
3. Chapter 93 - Special Protection Watersheds Map		Y	
4. Scenic Rivers Candidates Map		N	
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	No Comment	
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	No Comment	
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:	No Comment	

** 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	No Impact Anticipated
6. Compliance with applicable laws (DEP, PAFBC, ...)	No Impact Anticipated
7. Water dependency of the project	Water required for cooling
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:

- | | | |
|--|---|---------------------------------------|
| ☐ Natural or wild areas | ☐ Wild or scenic river | ☐ EV Watershed |
| ☐ Public water supply | ☐ Threatened or endangered species | |
| ☐ Wild trout stream | ☐ 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)?

N/A

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:

No EV Wetlands

* -- 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:

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

N/A

Explain:

105.18a(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(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(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

No EV Wetlands

§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:

Consultant reports that none of the wetlands function for recreational opportunities due to location on private property. They further report that:

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.

Assessment of described functions and values does not change with the major amendment.

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:

EA demonstrates no significantly adverse impacts. Wetlands exhibit prior disturbance and are not unique to the area. Accounting of W-22 as permanent rather than temporary does not make the impacts significantly adverse.

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:

Basic project purpose cannot be accomplished with further impact reduction. Alternatives analysis documents reduction of 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:

105.18a(b)(1)(iv) – Are there negative comments from other State and Federal environmental agencies concerning the scope and effect of the impact?

No

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

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 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. This major amendment fixes the accounting error for W-22, now accurately accounted as a permanent impact, with PIESCES fees accurately updated and all tables within the application now accurate.

105.18a(b) Summary: Other Wetlands

Proposed resource impacts are primarily poor to marginal condition resources, with mitigation compensation proposed. Avoidance measures have been demonstrated. Major amendment to account for W-22 as permanent rather than temporary contains accurate ARIT and PIESCES fees.

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 for original application to provide additional details, assuring adequate resource protection.

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. No associated changes for the major amendment.

Review of Application**Discussion:**

All previously noted technical deficiencies were adequately addressed with the original application review. This major amendment corrects the accounting of W-22 from a temporary impact to a permanent impact. The March 3, 2026 technical deficiency response documents show total proposed impacts of 162 feet of waived stream channel and 2.46 acres of wetland to include 0.864 acres of temporary impact. The permit issued on March 6, 2026 gave consent to temporarily impact 0.86 acres of PEM wetland and permanently impact 1.6 acres of PEM/PFO wetland and 162.35 feet of UNT Cherry Run.

The Wetland Condition Assessment Form for W-22 contains an error on the Assessment Area Size; I requested revisions to assure that the AA size does not affect overall condition index on a phone call to consultant on 6/17/2026, with revised Wetland Condition Assessment Form provided the same day with corrected AA not affecting the Overall Condition Index.

A notice of the amendment application was published in the PA Bulletin on 5/9/2026 for a 30-day comment period.

Note: the project description published in the bulletin for this major amendment incorrectly states that W-22 is a 0.08 acre wetland. It should have stated that W-22 is a 0.02 acre wetland. The revised wetland impacts were shown correctly for the project as 0.847 acre temporary and 1.614 acres permanent. The present review has confirmed that all project impacts are accurately depicted within the major amendment submission and that mitigation compensation for permanent impacts to W-22 are now correct. Wetland mitigation credit requirements for the Pennsylvania In Lieu Fee (PIESCES) Program were updated to include a total of 14.13 wetland credits to account for this accounting discrepancy. Mitigation for impacts to federally jurisdictional resources are still being provided through purchase of 0.26 wetland credits from First Pennsylvania Resources, L.L.C.

A public comment received on 06/09/2026 expresses concern about the accuracy and completeness of the project's wetland impact accounting, suggesting that the application should demonstrate that the revised permanent wetland's loss does not alter prior avoidance and minimization analyses, and that compensatory mitigation remains sufficient to replace lost wetland functions and values. – The correction of W-22 accounting as a permanent impact has been verified throughout the major amendment submission. The accounting error did not change the scope of work proposed or approved but rather accounting of impact calculations and inclusion of W-22 in the mitigation compensation. The total mitigation compensation has been updated to include an increase from 13.89 credits to a total of 14.13 wetland credits through the PIESCES program.

With correction of accounting errors, the amended permit will give consent to temporarily impact ~0.85 of PEM wetland and permanently impact ~1.61 acres of PEM/PFO wetland and 162.35 feet stream.

Approval recommended.

Special Conditions:

- All Special Conditions in the originally issued permit except Condition A remain unchanged for this major amendment. Condition A is now as follows:
- The Department has determined that the Permittee has made arrangements to satisfy their compensatory mitigation requirements for 14.13 wetland credits through the purchase of 14.13 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 \$155,430.00 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.