



October 12, 2021

Certified Mail No. 7018 0360 0002 2942 1119

PennEnergy Resources, LLC
Attn: Richard Watson
1000 Commerce Drive
Park Place One Suite 400
Pittsburgh, PA 15275

Re: PennEnergy Resources Water Management Plan Amendment Application
DEP File No. WMP: WMP-294943-5
WUDS Primary Facility ID No.:
Economy Borough, Beaver County

Dear Mr. Watson:

By letter dated July 8, 2021, PennEnergy Resources, LLC. ("PennEnergy") submitted a Water Management Plan ("WMP") amendment application ("WMP Amendment Application") to the Department of Environmental Protection ("DEP"), Southwest Oil and Gas District. In its WMP Amendment Application, PennEnergy proposes to withdraw 2.0 million gallons per day (MGD) from Big Sewickley Creek (water source).

In Pennsylvania, no person may withdraw or use water from water sources within the Commonwealth for drilling or completing any natural gas well in an unconventional gas formation except in accordance with a WMP approved by DEP. The WMP must demonstrate that the withdrawal protects those water sources required by law and protects public health, safety, and welfare. 25 Pa. Code § 78a.69a(1). An applicant, in submitting a WMP, or a WMP amendment application, must demonstrate that the proposed withdrawal will not, among other things, adversely impact a public natural resources' instream flow nor aquatic life habitat, and in this instance, habitat that serves a threatened or endangered species protected by the Endangered Species Act of 1973. 25 Pa. Code §§ 78a.69, and §105.16(c)(3).

DEP sent deficiency notifications to PennEnergy on July 12, 2021 and July 28, 2021 for the WMP Amendment Application. PennEnergy responded to the deficiency notifications on August 26, 2021. After review, DEP determined that the WMP Amendment Application is administratively incomplete and fails to demonstrate that PennEnergy's proposed withdrawal will not adversely impact a public natural resource. Specifically:

1. The site-specific operations plan ("Plan") (Attachment C) did not clearly depict the proposed infrastructure associated with the proposed withdrawal. The Plan should show all proposed structures associated with the intake, including, but not limited to: the pump; secondary containment; waterlines; the intake structure; personnel trailers; protective measures (i.e. construction fencing) and erosion and sediment control BMPs. The Plan should also depict the stream banks, water surface elevation, delineated wetlands and the floodway limits. This information is necessary so that the Department may determine if additional permits would be required for the proposed project. 25 Pa. Code § 78a.69c (6) (i); § 105.13(e) (1) (i).

2. The alternatives analysis outlining the avoidance or minimization of impacts to the Big Sewickley Creek watershed failed to address additional reasonable alternatives. 25 Pa Code § 105.13(e) (1) (viii). The alternatives analysis was deficient in that it did not include alternatives such as: an evaluation on trucking water from other water sources; lower withdrawal amounts; moving the withdrawal to a neighboring watershed; and did not include coordination documents from the Ambridge and Cranberry Township Public Water Authority showing that water was not available from these sources.
3. The Withdrawal Impact Analysis (Attachment I) failed to address the potential impacts that the proposed withdrawal would have on water quality, stream flow, fish and wildlife (specifically known populations of Southern Redbelly Dace), and aquatic habitat. For example, the Withdrawal Impact Analysis should demonstrate:
 - a. how the surface withdrawal will protect instream flow, especially when the withdrawal is proposed to be taking 14.3% of the average daily flow;
 - b. that the intake screen velocities will not impact aquatic species (see comment below); and that recreational uses will not be impacted 25 Pa. Code §§ 78a.69(b) (1), § 105.13 (e) (1) (x), §and 105.14 (b) (4).
4. The Withdrawal Impact Analysis (Attachment I) failed to demonstrate that the withdrawal would have no material impact on the wetlands identified on site. 25 Pa. Code. §§ 78.69a(c)(4) and 78.69a(c)(5).
5. The 25% passby rate (5.4 cfs) is proposed to be monitored with a calibrated staff gage, but the staff location and calibration data was not provided. The application did not include the location of the calibrated staff gage, sufficient instream discharge data, and a developed rating curve. 25 Pa. Code § 78.69a(c)(3).
6. Calculations were not provided showing that screen intake velocities would not exceed 0.5 feet per second at the proposed 1388 gpm in accordance with the August 23, 2021 PA Fish and Boat Commissions letter. 25 Pa. Code §§ 78a.69(a)(1) and (b).
7. The Wetland and Stream Delineation mapping was not updated to include all photo locations and orientations. 25 Pa. Code § 105.13 (e)(1) (iv).

In accordance with 25 Pa. Code § 78a.69 (g), the Department may deny an application for a WMP that is administratively incomplete and may deny an application for a WMP that does not demonstrate that the requirements of 25 Pa. Code § 78a.69 will be met.

Accordingly, DEP hereby denies the WMP Amendment Application as it does not satisfy the requirements of the 2012 Oil and Gas Act and the regulations., specifically, 25 Pa. Code § 78a.69.

If you have any questions, you may contact Samantha Lutz at 412.442.4043 or at the address 400 Waterfront Drive, Pittsburgh, PA 15222.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board) pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

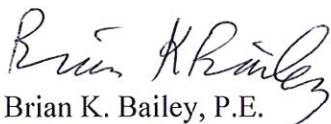
Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

Sincerely,



Brian K. Bailey, P.E.
Program Manager
Bureau of District Oil and Gas Operations

CC: File
Pennsylvania Fish and Boat Commission
P. Martin- Moody and Associates, LLC
J. Miller
K. Halloran
B. Schimmel
L. Fraley