

**ENVIRONMENTAL MITIGATION
COMMUNITY FUND
PROTOCOL**

A. BACKGROUND

The \$5 million Environmental Mitigation Community Fund is one of the largest funds in Pennsylvania history created to ensure that the results of a May 24, 2023 consent order and agreement with Shell (COA) include an investment in Western Pennsylvania communities impacted by the violations at the Shell Facility. This Protocol was developed as a requirement of the COA to outline the criteria for seeking, evaluating, and supporting projects through the appropriate financial vehicle for the funds.

This Environmental Mitigation Community Fund Protocol (Protocol) will be implemented through a Protocol Implementation Plan that is currently under development (as of July 2023). This Protocol, the Protocol Implementation Plan, and the agreement between Shell and [Trustee] will govern the composition of the Steering Committee, the Advisory Board, selection and distribution of awards for approved projects, and other items as so enumerated.

B. DEFINITIONS

- Fund – The Environmental Mitigation Community Fund established by Paragraph 11(c) of the COA as a secure, interest-bearing escrow vehicle with a fiduciary agent.
- Department or DEP – The Pennsylvania Department of Environmental Protection
- OEJ – Office of Environmental Justice – a section of the Department of Environmental Protection
- Steering Committee – the Steering Committee initially consisting of 17 members representing organizations serving Beaver County and those spearheading environmental justice within DEP.¹
- Trustee – [As to be announced]
- Shell – Shell Chemical Appalachia, LLC
- Facility – the Shell petrochemical facility as described in the COA and colloquially known as the “Shell Cracker Plant” and variations thereof
- Protocol – Environmental Mitigation Community Fund Protocol
- Advisory Board – a Board, yet to-be-formed, composed of members representing organizations serving Beaver County and those spearheading environmental justice within DEP that recommend community project applications for selection and recommendation for award funding.

¹ The initial 17 Steering Committee Members are named in DEP’s press release dated 7/10/23 entitled “DEP Announces Steering Committee for \$5 Million Environmental Mitigation Community Fund, Committee to Host Open Meeting.”

- Community Project – a project that is recommended for an award by the Advisory Board for approval by [Trustee] in accordance with its due diligence procedures.
- Nearby Communities – as used in the COA, nearby communities mean those in Beaver County, Pennsylvania.

C. ROLES OF THE STEERING COMMITTEE

1. Selection of the Steering Committee

a. Paragraph 11(a) of the COA establishes the participation of the DEP Office of Environmental Justice in the Environmental Mitigation Community Fund. The Department’s Special Deputy for Environmental Justice conducted several meetings with local community leaders, stakeholders, Shell, and with staff from DEP’s Southwest Regional Office. After receiving thirty-four recommendations for potential members, the Department’s Special Deputy for Environmental Justice selected sixteen finalists, securing industry and regional, expertise, and demographic representation. The list of sixteen finalists was reviewed and approved by a multidisciplinary working group within DEP.

b. Should a new Steering Committee member be necessary, or a new Steering Committee be required, the same process will be utilized to appoint a new member or convene a new committee, although the total number of members may differ.

2. Development of the Protocol

a. The Steering Committee has taken an active role in discussing and providing input on this Protocol.

b. The Steering Committee may vote and approve the Protocol by a simple majority vote once there has been an opportunity for comment on this draft Protocol by the members of the Steering Committee.

3. Development of Protocol Implementation Plan

a. The Steering Committee will meet to develop a Protocol Implementation Plan to ensure that the goals of the Environmental Community Mitigation Fund are met in a manner that is fair and timely.

b. The Steering Committee may vote and approve the Protocol Implementation Plan by a simple majority vote, once there has been an opportunity for comment on the draft outline by the members of the Steering Committee.

4. Establishing the Selection Criteria

A proposed community project, which if approved will become a Community Project, must meet the following selection criteria. Any proposed community project application should describe how the project would meet each of the selection criteria.

a. Community Project Criteria

i. The Proposed Community Project should provide one or more of the following:

1. Benefits to environment
2. Benefits to health
3. Benefits to quality of life

ii. No Proposed Community Project should seek funding for the following:

1. Lobbying of public or private entities and/or individuals
2. Advocacy against any party to the COA, any government entity, or any private and/or public organization
3. Legal advice, services, or representation, or support services for litigation and/or potential legal action, whether against a private or public entity; though legal advice sought for completion of a community project may be approved by the Advisory Board (such as contracting, subcontracting, and purchasing).
4. Promote or enable hate, discrimination, or violence against any individual, group, organization, or other entity

iii. Location of Proposed Community Projects:

1. The proposed project should be located in Beaver County, Pennsylvania.

iv. Special Considerations:

1. Per Paragraph 11(b) of the COA, the Steering Committee has accepted the COA recommendation that at least one of the projects should provide for regular, independent, testing of the air quality in the vicinity of the Facility.

2. The Steering Committee has also agreed that at least one of the projects should focus on meaningful community education and engagement that fosters civic participation to design strategies seeking to improve the health and/or quality of life of the communities near to the facility.

b. Applicant Criteria

i. Any organization designated as a 501(c)(3) of the Internal Revenue Code of 1986 (Code), and not otherwise classified as a private foundation under Section 509(a) of the Code may apply. If a potential applicant is not a 501(c)(3), it may partner

with a designated 501(c)(3) as part of its application, including use of a 501(c)(3) as a fiscal sponsor. Limitations on applicants will be further described in the Protocol Implementation Plan.

ii. Mandatory location

1. Based in Beaver County, Pennsylvania, or

2. If an applicant based outside of Beaver County wishes to seek funding for a proposed community project, it must apply in a partnership with a qualifying organization based in Beaver County

a. If applying in a partnership as described above, the qualifying organization based in Beaver County must have an active role in the proposed community project that is delineated in the application.

D. ROLES OF THE TRUSTEE

1. Management of the Fund

a. The Trustee will fulfill the provision in the COA Paragraph 11(c) of managing the Fund as an interest-bearing account in accordance with this Protocol, the Protocol Implementation Plan, and any funding agreement documents executed by the Trustee related to the Fund.

b. The Trustee will manage the Fund in accordance with the recommendations of the Advisory Board.

2. Distribution of Awards

a. The Trustee should provide an infrastructure for the distribution of awards from the Fund to approved Community Projects.

b. The Trustee should provide an accounting of award funds that are paid out, to whom, and for what approved Community Project, in conjunction with the Advisory Board.

E. DISCLAIMER

All publicity, press release, and/or advertisement of approved Community Projects, will be accompanied by a disclaimer that states as follows:

“This Community Project was funded, in whole or part, by the Environmental Mitigation Community Fund created pursuant to a Consent Order and Agreement that was executed between Shell Chemical Appalachia, LLC and the Pennsylvania Department of Environmental Protection, regarding violations of the Air Pollution Control Act and regulations.”