

ENVIRONMENTAL HEARING BOARD
2nd Floor, Rachel Carson State Office Building
400 Market Street, Post Office Box 8457
Harrisburg, Pennsylvania 17105-8457

CLEAN AIR COUNCIL, CITIZENS FOR
PENNSYLVANIA'S FUTURE, and SIERRA
CLUB,

Appellants,

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Appellee,

and

HOMER CITY GENERATION, LP,
Permittee.

EHB Docket No. _____

ELECTRONICALLY FILED

NOTICE OF APPEAL

Clean Air Council
1617 JFK Boulevard, Suite 1130
Philadelphia, PA 19103
(215) 567-4004

Citizens for Pennsylvania's Future
200 First Avenue, Suite 101
Pittsburgh, PA 15222
(412) 547-3017

Sierra Club
50 F Street, NW – Eighth Floor
Washington, D.C. 20001
(202) 675-7917

NOTICE OF APPEAL FORM

APPEAL INFORMATION

1. Name, address, telephone number, and email address (if available) of Appellants:

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2. Describe the subject of your appeal:

(a) What action of the Department do you seek review?

(NOTE: If you received written notification of the action, you must attach a copy of the action to this form.)

Appellants seek review of the Department of Environmental Protection's ("Department") issuance of **Plan Approval No. 32-00457A** (the "Plan Approval") to **Homer City Generation LP**, 1750 Power Plant Road, Homer City, PA 15748-8009 ("Homer City" or "HCG"). The Plan Approval is attached hereto as Exhibit A. The Department sent Appellants notice of this action by email at 9:20 a.m., November 19, 2025. That email is attached hereto as Exhibit B. The Department's Comment Response Document ("Comment Response") is attached hereto as Exhibit C.

(b) Which Department official took the action?

Lori L. McNabb, Environmental Program Manager, Northwest Regional Office, Department of Environmental Protection issued the Plan Approval.

(c) What is the location of the operation or activity which is the subject of the Department's action (municipality, county)?

The 3,200-acre site which is the subject of the Department's action (the "Proposed Project") is located in the Townships of Center and Blacklick, Indiana County, PA, and is comprised of a proposed fracked gas-fired power plant as well as multiple buildings housing data center infrastructure.

(d) How, and on what date, did you receive notice of the Department's action?

Appellants received actual notice of the Department's action upon reading the email attached hereto as Exhibit B, as described above. Notice of the Plan Approval was published in the Pennsylvania Bulletin, Volume 55, No. 48 on November 29, 2025, p.8163.

3. Describe your objections to the Department's action in separate, numbered paragraphs.

(NOTE: The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Attach additional sheets if necessary.)

- A. The Department abused its discretion in failing to follow its own Environmental Justice Public Participation Policy before issuing the Plan Approval, despite the Proposed Project being in or within a 0.5 mile radius of Center Township, a recognized Environmental Justice community.
- B. The Department improperly reviewed and accepted the Applicant's use of incorrect methodology for determining Lowest Achievable Emission Rate ("LAER"), Best Available Control Technology ("BACT"), and Best Achievable Technology ("BAT"); this error by the Department resulted in the issuance of a permit with incorrect emissions limits.
- C. The Department incorrectly reviewed and accepted the Applicant's erroneous BACT analysis for carbon monoxide for the combined cycle combustion turbines; this error resulted in an excessive emission limit.
- D. The Department incorrectly accepted the Applicant's incorrect BAT analysis for ammonia slip for the combustion turbines; this error resulted in an excessive emission limit.
- E. The Department's review of the Proposed Project, including its review of PSD and NSR applicability, other requirements under the Air Pollution Control Act and its implementing regulations, and its obligations pursuant to Article 1, Section 27 of the Pennsylvania Constitution, was arbitrary, capricious, and contrary to law because it failed

to consider the entire Proposed Project, despite its awareness that the Project includes both a proposed power plant and a proposed 3,200 acre data center campus.

- F. The Department erred in issuing the Plan Approval where the Applicant failed to conduct a sufficient alternatives analysis as required under 25 Pa. Code § 127.205(5) because it did not properly evaluate “alternative sites, sizes, production processes and environmental control techniques” for the Proposed Project, including alternatives for the proposed power plant.
 - G. The Department erred in issuing the Plan Approval where the Applicant failed to demonstrate, as required by 25 Pa. Code § 127.205(5), that the benefits of the Proposed Project would significantly outweigh the environmental and social costs.
 - H. In determining the Proposed Project’s potential to emit criteria pollutants, the Department accounted for emission reduction credits without a demonstration that the credits meet the requirements of 25 Pa. Code § 127.206(c), 25 Pa. Code § 127.208(3), and 25 Pa. Code § 127.208(4).
 - I. The Department erred in issuing the Plan Approval where the Applicant failed to provide a sufficient analysis of additional impacts that would occur as a result of the Proposed Project, as required by 40 C.F.R. § 52.21(o), including air quality impacts.
 - J. The Department violated its obligations as a trustee of Pennsylvania’s public natural resources, as established in Article I, Section 27 of the Pennsylvania Constitution, by issuing the Plan Approval despite the unprecedented levels of pollution the Proposed Project will emit into Pennsylvania’s environment.
 - K. The Plan Approval is otherwise unsupported by fact, contrary to law, in violation of the Air Pollution Control Act, in violation of the Clean Air Act, arbitrary, capricious, unreasonable, and/or an abuse of discretion.
 - L. Appellants reserve the right to amend this Notice of Appeal to include additional objections that may arise during further investigations and discovery in this matter.
4. Specify any related appeal(s) now pending before the Board. If you are aware of any such appeal(s) provide that information.

Appellants are not aware of any related appeals pending at the time of this filing.

SIGNATURE PAGE

By filing this Notice of Appeal with the Environmental Hearing Board, I hereby certify that the information submitted is true and correct to the best of my information and belief. Additionally, I certify that a copy of this Notice of Appeal was served upon each of the individuals indicated in the Certificate of Service on the date below.

Dated: December 17, 2025

/s/ Lawrence Hafetz_____

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**Pro hoc vice pending*

/s/ Jessica O'Neill_____

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Future and Sierra Club*

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD**

CLEAN AIR COUNCIL, CITIZENS FOR
PENNSYLVANIA'S FUTURE, and SIERRA
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Appellants,

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COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
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Permittee.

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CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of the foregoing Notice of Appeal was filed with the Pennsylvania Environmental Hearing Board and was served on the following on the date listed below:

Electronic Service via the Board

Department of Environmental Protection
Office of Chief Counsel
16th Flr. Rachel Carson State Office Building
400 Market Street, P.O. Box 8464
Harrisburg, PA 17105-8464

Overnight Mail

Joel S. Heiser
General Counsel/ Secretary
Homer City Generation LP
1750 Power Plant Road
Homer City, PA 15748-8009

Date: December 17, 2025

/s/ Lauren Otero
Lauren Otero, Esq.