

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	PETITION FOR OBJECTION
	)	
Clean Air Act Title V Permit (Federal	)	
Operating Permit) No. TV-65-00990	)	
	)	
Issued to Tenaska Pennsylvania Partners, LLC	)	Permit No. TV-65-00990
for the Tenaska Westmoreland Generating Station,	)	
South Huntingdon Township, Pennsylvania	)	
	)	
Issued by the Pennsylvania Department of	)	
Environmental Protection	)	

**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO THE
ISSUANCE OF TITLE V OPERATING PERMIT NO. TV-65-00990 FOR THE TENASKA
PENNSYLVANIA PARTNERS, LLC TENASKA WESTMORELAND GENERATING
STATION**

Table of Contents

I. INTRODUCTION	2
II. PETITIONERS	2
III. PROCEDURAL BACKGROUND.....	3
IV. LEGAL REQUIREMENTS.....	3
V. GROUNDS FOR OBJECTION.....	5
A. The Permit Must Require More Frequent Monitoring of Total PM, Total PM ₁₀ , Total PM _{2.5} , Sulfuric Acid Mist, Sulfur Oxides, and Greenhouse Gas Emissions from the Combustion Turbines.	5
B. The Permit Sets Limits on Eight Pollutants from the Auxiliary Boiler But Does Not State the Method or Frequency Required to Monitor Any of Them, So the Draft Permit Does Not Assure Compliance With Limits As Required by the Clean Air Act.	8
C. The Permit Impermissibly Authorizes Emissions during “Run Backs” and Fails to Limit Emissions Associated with These Events..	11
D. The Permit Does Not Include Sufficient Monitoring Requirements to Assure Compliance with Hourly PM, PM _{2.5} , or PM ₁₀ Limits from the Cooling Tower Because It Only Requires Once Monthly TDS Monitoring.....	13

E. The Permit Fails to State How Monitoring of Circulating Water TDS Will Be Used to Determine Compliance with PM Emission Limits.	15
F. The Permit Fails to Assure Compliance with VOC Emissions Limitations by Failing to Require Meaningful VOC:CO Correlations Based on VOC Stack Testing.....	17
VI. CONCLUSION.....	18

I. INTRODUCTION

Pursuant to section 505(b)(2) of the Clean Air Act, 42 U.S.C. §7661(b)(2), and 40 C.F.R. § 70.8(b), Environmental Integrity Project (“EIP”) and Mountain Watershed Association (“MWA”) (collectively, “Petitioners”) hereby petition the Administrator of the U.S. Environmental Protection Agency (“Administrator” or “EPA”) to object to Title V Operating Permit No. TV-65-00990 (“Permit”) issued by the Pennsylvania Department of Environmental Protection (“DEP” or “Department”) on June 30, 2026 for Tenaska Westmoreland Generating Station (“Tenaska Plant” or “the facility”), owned and operated by Tenaska Pennsylvania Partners, LLC (“Tenaska”). The Tenaska Plant is located in South Huntingdon Township, Westmoreland County, Pennsylvania.

As required, Petitioners are filing this Petition with the Administrator at titleVpetitions@epa.gov and providing copies via email and certified U.S. mail to DEP and Tenaska.

As discussed further below, EPA must object to the Permit because it fails to require adequate monitoring of multiple permit-limited pollutants from the combustion turbines, lacks any monitoring of multiple permit-limited pollutants from the auxiliary boiler, impermissibly authorizes emissions during “run back” event and fails to limit emissions associated with these events, lacks monitoring and testing requirements sufficient to assure compliance with hourly PM, PM_{2.5}, or PM₁₀ limits from the cooling tower, fails to state how monitoring of circulating water TDS will be used to determine compliance with PM emission limits, and fails to assure compliance with VOC emission limitations by failing to require meaningful VOC:CO correlations that are based on VOC stack testing.

II. PETITIONERS

The Environmental Integrity Project (“EIP”) is a national nonprofit organization headquartered in Washington, D.C. and with several full-time staff throughout Pennsylvania. EIP’s mission is to protect public health and our natural resources by holding polluters and government agencies accountable under the law, advocating for tough but fair environmental standards, and empowering communities fighting for clean air and clean water. EIP pursues this mission by providing objective analyses of how the failure to enforce or implement environmental laws increases pollution and affects public health.

Mountain Watershed Association is a non-profit, 501(c)(3) organization with the mission to protect, preserve and restore the Youghiogheny River watershed and its broader communities through conservation, recreation, education, and advocacy. Our organization is unique in that we

pursue on-the-ground restoration of past environmental damages while we advocate to protect the watershed from new sources of pollution, primarily caused by fossil fuel development. We achieve our mission through a variety of initiatives including abandoned mine drainage remediation, water quality monitoring, trail development, educational programming, grassroots organizing, and legal advocacy.

III. PROCEDURAL BACKGROUND

This petition addresses DEP's issuance of the initial Title V Operating Permit No. TV-65-00990 for the Tenaska Plant, which is located in Westmoreland County at 446 Smithton Pike, Smithton, PA 15479, South Huntingdon Township, Westmoreland County, Pennsylvania.

This facility has never had a Title V operating permit before. Tenaska submitted a Title V Application on July 11, 2024. Notice of the Department's intent to issue the initial TVOP was published in the PA Bulletin on October 4, 2025, for a 30-day public comment period on the Draft Permit, which was dated September 26, 2025 ("Draft Permit") (attached here as Exhibit 1). The public comment period ended on November 3, 2025. The Draft Permit was accompanied by a DEP review memo dated September 23, 2025 ("Review Memo," attached here as Exhibit 2).

On November 3, 2025, Petitioners timely filed significant Public Comments on the Draft Permit. *See* Exhibit 3, Comments Regarding Draft Title V Operating Permit No. TV-65-00990 ("Comments").

In response to a request sent by EIP, MWA, and others, DEP held a public hearing on February 4, 2026 and DEP accepted written comments until ten days thereafter.

On June 30, 2026, DEP sent petitioners the final Permit (attached here as Exhibit 4, "Permit"), and the "Comment and Response Document" (attached here as Exhibit 5, "RTC").

EPA's 45-day review period began on June 3, 2026 and ended on July 17, 2026. EPA did not object to the Renewal Permit during that period, which initiated the start of the 60-day public petition period that has a deadline of September 15, 2026. Accordingly, this Petition is timely filed.

IV. LEGAL REQUIREMENTS

Federal operating permits are the primary method for enforcing and assuring compliance with the Clean Air Act's pollution control requirements for major sources of air pollution. Operating Permit Program, 57 Fed. Reg. 32,250, 32,258 (July 21, 1992). Prior to enactment of the federal operating permit program, regulators, operators, and members of the public had difficulty determining which requirements applied to each major source and whether sources were complying with applicable requirements. This was a problem because applicable requirements for each major source were spread across many different rules and orders, some of which did not make it clear how general requirements applied to specific sources.

One of the primary purposes of the Title V operating permit program is to "enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements," to enable "[i]ncreased source

accountability and better enforcement.” *Id.* at 32,251 (emphasis added). The federal operating permit program was created to improve compliance with, and to facilitate enforcement of, Clean Air Act requirements by requiring each major source to obtain an operating permit that: (1) lists all applicable federally enforceable requirements; (2) contains enough information for readers to determine how applicable requirements apply to units at the permitted source; and (3) establishes monitoring requirements that assure compliance with all applicable requirements. 42 U.S.C. § 7661c(a) and (c); 40 C.F.R. § 70.6(a) and (c); *Virginia v. Browner*, 80 F.3d 869, 873 (4th Cir. 1996) (“The permit is crucial to implementation of the Act: it contains, in a single, comprehensive set of documents, all CAA requirements relevant to the particular source”); *Sierra Club v. EPA*, 536 F.3d 673, 674-75 (D.C. Cir. 2008) (“But Title V did more than require the compilation in a single document of existing applicable emission limits It also mandated that each permit . . . shall set forth monitoring requirements to assure compliance with the permit terms and conditions”).

It is the Title V permitting authority’s responsibility to ensure that a proposed permit “‘set[s] forth’” conditions sufficient “‘to assure compliance with all applicable requirements’” of the Clean Air Act. *In the Matter of Sandy Creek Services, LLC, Sandy Creek Energy Station, McLennan County, TX*, Order on Petition No. III-2018-1 (June 30, 2021) (“Sandy Creek Order”) at 12 (quoting 42 U.S.C. § 7661c(c)). Among other things, a Title V permit must include compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1). A “monitoring requirement insufficient ‘to assure compliance’ with emission limits has no place in a permit unless and until it is supplemented by more rigorous standards.” *See Sierra Club*, 536 F.3d at 677.

If applicable requirements themselves contain no periodic monitoring, EPA’s regulations require permitting authorities to add “periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit.” 40 C.F.R. 70.6(a)(3)(i)(B); *see also, In the Matter of Mettiki Coal, LLC*, Order on Petition No. III-2013-I at 7 (Sept. 26, 2014). In addition, the D.C. Circuit has acknowledged that that the mere existence of periodic monitoring requirements may not be sufficient. 536 F.3d at 675-77. For example, the Court noted that annual testing is unlikely to assure compliance with a daily emission limit. *Id.* at 675. In other words, the frequency of monitoring must bear a relationship to the averaging time used to determine compliance. 40 C.F.R. 70.6(c)(1) of EPA’s regulations acts as a “gap filler” and requires that permit writers must supplement a periodic monitoring requirement if it is inadequate to assure continuous compliance with the permit. 536 F.3d at 675; *Mettiki Order* at 7.

All emission limits in a Title V permit must be enforceable as both a legal and practical matter. In order for a limit to be enforceable under the Clean Air Act, it must be supported by monitoring, recordkeeping, and reporting requirements “sufficient to enable regulators and citizens to determine whether the limit has been exceeded and, if so, to take appropriate enforcement action.” *In the Matter of Orange Recycling and Ethanol Production Facility, Pencor-Masada Oxynol, LLC*, Order on Petition No. II-2001-05 7 (Apr. 8, 2002) (emphasis added).

The permitting authority’s rationale for any proposed permit conditions must be clear and documented in the permit record, 40 C.F.R. § 70.7(a)(5), and “permitting authorities have a

responsibility to respond to significant comments” received on a proposed permit. *In the Matter of CITGO Refining and Chemicals Co., L.P., West Plant, Corpus Christi, TX*, Order on Petition No. VI-2007-01 (May 28, 2009) (“CITGO Order”) at 7.

EPA must object to any Title V permit that fails to include or assure compliance with all applicable requirements of the Clean Air Act. 42 U.S.C. 7661d(b)(1); 40 C.F.R. § 70.8(c). “Applicable requirements” include any requirements of a federally enforceable SIP and any preconstruction requirements that are incorporated into the Title V permit. *In the Matter of Pac. Coast Bldg. Prods., Inc.*, Permit No. A00011, Clark County, NV (Dec. 10, 1999) (“Pac. Coast Order”) at 7 (“applicable requirements include the requirement to obtain preconstruction permits that comply with preconstruction review requirements under the Act, EPA regulations, and State Implementation Plans.”).

If EPA does not object to a Title V permit, “any person may petition the Administrator within 60 days after the expiration of the Administrator’s 45-day review period to make such objection.” 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d). The Administrator “shall issue an objection” if the petitioner demonstrates “that the permit is not in compliance with the requirements of [the Clean Air Act], including the requirements of the applicable implementation plan.” 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1). The Administrator “shall grant or deny such petition within 60 days after the petition is filed.” 42 U.S.C. § 7661d(b)(2).

V. GROUNDS FOR OBJECTION

For all the reasons discussed below, EPA must object to the Title V Permit for the Tenaska Plant.

A. The Permit Must Require More Frequent Monitoring of Total PM, Total PM₁₀, Total PM_{2.5}, Sulfuric Acid Mist, Sulfur Oxides, and Greenhouse Gas Emissions from the Combustion Turbines.

1. Specific Grounds for Objection, Including Citation to Permit Term

The Permit limits the emission of Total Particulate Matter (“PM”), Total PM with a diameter of 10 microns or less (“PM₁₀”), Total PM with a diameter of 2.5 microns or less (“PM_{2.5}”), sulfuric acid mist, sulfur oxides, and greenhouse gases from the combustion turbines with annual limits expressed in units of tons per year (“tpy”). Permit at 37, Section E, Condition #001. The Permit also limits short-term combustion turbine emissions of Total PM, Total PM₁₀, Total PM_{2.5}, sulfuric acid mist and sulfur dioxide during normal operations with limits expressed in units of pounds per hour. Permit at 38, Section E, Condition #006.

Yet the only monitoring required by the permit is stack testing at an interval of two years (for particulate matter), Permit at 39, Section E, Condition #010, and at an interval of 25,000 hours (approximately 2.85 years) for greenhouse gases. Permit at 39, Section E, Condition #011. There appear to be no stack testing requirements for sulfuric acid mist or sulfur dioxide.

The Permit therefore fails to require monitoring adequate to assure compliance with the annual and hourly limits in the Permit. PA DEP must require hourly or continuous monitoring for Total PM, Total PM₁₀, Total PM_{2.5}, sulfuric acid mist, and sulfur oxides, and at least annual monitoring

of greenhouse gases. In no case can DEP allow monitoring less frequent than annual for any of these pollutants.

2. Applicable Requirement or Part 70 Requirement Not Met

Each Title V permit must contain monitoring, recordkeeping, and reporting conditions that assure compliance with all applicable requirements. 42 U.S.C. § 7661c(a) and (c); 40 C.F.R. § 70.6(a)(3) and (c)(1); *In the Matter of U.S. Steel Corp., Edgar Thomson Plant*, Permit No. 0051-OP23 at 2, 17 (Feb. 7, 2024) (Edgar Thomson Order”); *In the Matter of Wheelabrator Baltimore, L.P.* (Wheelabrator Order), Permit No. 24-510-01886 at 10 (Apr. 14, 2010). Requirements of a preconstruction permit and requirements of a federally enforceable SIP that are incorporated into a Title V permit are “applicable requirements.” 40 C.F.R. § 70.2 (“applicable requirement”). The rationale for the selected monitoring requirements must be clear and documented in the permit record. 40 C.F.R. § 70.7(a)(5); *In the Matter of United States Steel, Granite City Works* (Granite City I Order), Order on Petition No. V-2009-03 at 7-8 (January 31, 2011).

If applicable requirements themselves contain no periodic monitoring, EPA’s regulations require permitting authorities to add “periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit.” 40 C.F.R. § 70.6(a)(3)(i)(B); *see also, In the Matter of Mettiki Coal, LLC*, Order on Petition No. III-2013-I at 7 (Sept. 26, 2014). In addition, the D.C. Circuit has acknowledged that the mere existence of periodic monitoring requirements may not be sufficient. 536 F.3d at 675-77. For example, the Court noted that annual testing is unlikely to assure compliance with a daily emission limit. *Id.* at 675. Since then, EPA has expressly found that annual testing alone is insufficient to assure compliance with an hourly limit. In *In re Northeast Maryland Waste Disposal Authority*, Order on Petition No. III-2019-2 (“NMWDA Order”), EPA found that petitioners demonstrated that the annual stack testing required to demonstrate compliance with an hourly limit for HCl at Covanta’s incinerator in Montgomery County, Maryland was insufficient and that the additional measures cited by the permitting agency did not cure the deficiency. In fact, in its order, EPA said that monitoring on a 3-hour basis is likely inadequate to assure compliance with an hourly standard. *Id.* at 10-11, note 10 (“use of a 3-hour block average, even if using a certified HCl CEMS, is likely inappropriate for demonstrating compliance with a 1-hour standard”).

3. Inadequacy of Permit Term

As described above, the Permit limits the emission of Total PM, Total PM₁₀, Total PM_{2.5}, sulfuric acid mist, sulfur oxides, and greenhouse gases from the combustion turbines with annual limits expressed in units of tons per year (“tpy”). Permit at 37, Section E, Condition #001. The Permit also limits short-term combustion turbine emissions of Total PM, Total PM₁₀, Total PM_{2.5}, sulfuric acid mist and sulfur dioxide during normal operations with limits expressed in units of pounds per hour. Permit at 38, Section E, Condition #006. Yet the only monitoring required by the permit is stack testing at an interval of two years (for particulate matter), Permit at 39, Section E, Condition #010, and at an interval of 25,000 hours (approximately 2.85 years) for greenhouse gases. Permit at 39, Section E, Condition #011. There appear to be no stack testing requirements for sulfuric acid mist or sulfur dioxide. The Permit therefore fails to require

monitoring adequate to assure compliance with the annual and hourly limits in the Permit because the frequency of the monitoring requirements is not often enough to be “sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit.” 40 C.F.R. § 70.6(a)(3)(i)(B).

4. Issue Raised in Public Comments

Petitioners raised this issue in public comments. Comments at 6-9, Section II.a.i.

5. Analysis of Department’s Response

In response to Petitioners’ comment II.a.i DEP simply stated: “Please refer to General Responses 2 and 4, above.” RTC at 30. DEP’s General Response 4 dealt with recordkeeping, not monitoring. DEP’s General Response 2 does provide brief, but inadequate, responses.

For PM, PM₁₀ and PM_{2.5}, DEP states that emissions are “stable and there is a low likelihood of a violation of these limits.” RTC at 3. This assumption is unsupported by any record evidence, and in any case does not address the issue of whether the Permit’s monitoring requirements are “sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit.” 536 F.3d at 675. DEP cannot evade its obligation to require sufficient monitoring by assuming that the monitoring results would be below the Permit limits. The point of monitoring is to verify that this assumption is correct, and to promptly recognize any violations so the underlying problem can be addressed as soon as possible.

DEP goes on to say that the Permit requires daily visual observations of opacity, and opacity violations “would indicate a particulate matter issue.” RTC at 3. Indeed they would; the presence of excess opacity would likely mean that there was also a PM violation. But the inverse is not necessarily true: The absence of an opacity violation does not necessarily prove the absence of a PM violation. And DEP has not explained the relationship between the two in a way that could support the use of opacity as a surrogate for PM emissions.

DEP next argues that records of the “manufacturer’s maintenance schedule and any maintenance performed” are useful indicators of PM emissions. RTC at 3. They are not. This is not monitoring, and it provides no information about the rate of PM emissions before or after any maintenance performed. Similarly, the contracts showing the use of pipeline quality natural gas (RTC at 3) are not monitoring and provide no information about the rate of PM emissions.

For sulfuric acid mist and sulfur dioxide, DEP suggests again that emissions are “stable” with a “low likelihood of a violation.” RTC at 3. And again, DEP’s unsupported assumptions are no substitute for monitoring requirements that are “sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit.” 536 F.3d at 675. DEP also suggests that the monitoring the fuel sulfur content of the natural gas ensures that sulfuric acid mist and sulfur dioxide emissions are “minimized.” RTC at 3-4. To say that emissions are “minimized” is not the same as saying that they will meet Permit limits. DEP has not explained, quantitatively, how the sulfur content of the fuel gas can be used as surrogate for the rate of sulfuric acid mist or sulfur dioxide emissions, nor have they provided fuel sulfur content thresholds that would be equivalent to emissions of these pollutants at or above their Permit limits. This is simply not an adequate substitute for basic emissions monitoring.

Finally, DEP argues that “[e]missions of GHGs are monitored through the use of high efficiency turbines and good combustion practices” and through limits on the duration of startup and shutdown. RTC at 4. This is irrational – these technologies and practices are not “monitoring” in any sense of the word. What happens if the “high efficiency turbines” fail to operate as planned? How would anyone know that GHGs are being monitored at levels exceeding their permit limits?

In sum, the Permit clearly lacks monitoring “sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit.” 536 F.3d at 675. The Permit does not monitor the above-listed pollutants on an annual or hourly basis, despite the fact that these pollutants have annual and hourly limits. DEP has not explained how the Permit could otherwise assure compliance with these limits. DEP must therefore require hourly or continuous monitoring of Total PM, Total PM₁₀, Total PM_{2.5}, sulfuric acid mist, and sulfur dioxide, and at least annual monitoring of greenhouse gases. In no case can DEP allow monitoring less frequent than annual for any of these pollutants.

B. The Permit Sets Limits on Eight Pollutants from the Auxiliary Boiler But Does Not State the Method or Frequency Required to Monitor Any of Them, So the Draft Permit Does Not Assure Compliance With Limits As Required by the Clean Air Act.

1. Specific Grounds for Objection, Including Citation to Permit Term

The Permit is deficient because it fails to impose monitoring requirements to assure compliance with applicable limits on eight pollutants from the Auxiliary Boiler. The Permit contains limits on NO_x, CO, VOC, Total PM, Total PM₁₀, Total PM_{2.5}, H₂SO₄, and SO₂ expressed as limits in lb/MMBtu or tons per year (“tpy”) on a 12-month rolling basis. Permit at 25. The limits for the auxiliary boiler include the following:

The emissions from the auxiliary boiler shall not exceed the following:

- (a) NO_x: 0.011 lb/MMBtu or 5.76 tpy on a 12-month rolling basis.
- (b) CO: 0.037 lb/MMBtu or 19.85 tpy on a 12-month rolling basis.
- (c) VOC: 0.0054 lb/MMBtu or 2.89 tpy on a 12-month rolling basis.
- (d) Total PM: 0.0075 lb/MMBtu or 4.00 tpy on a 12-month rolling basis.
- (e) Total PM₁₀: 0.0075 lb/MMBtu or 4.00 tpy on a 12-month rolling basis.
- (f) Total PM_{2.5}: 0.0075 lb/MMBtu or 4.00 tpy on a 12-month rolling basis.
- (g) H₂SO₄: 9.20E-06 lb/MMBtu or 4.94E-03 tpy on a 12-month rolling basis.
- (h) SO₂: 0.0006 lb/MMBtu or 0.32 tpy on a 12-month rolling basis.

Permit at 25 (Section D, #001).

According to DEP, “[c]ompliance with the above emission limits ensures compliance with 25 Pa. Code §§ 123.11, 123.22, and the applicable RACT III requirement of § 129.112(g)(1)(i).” Permit at 25. 25 Pa. Code §§ 123.11 and 123.22 have been incorporated into the Pennsylvania State Implementation Plan (“SIP”). See <https://www.epa.gov/air-quality-implementation-plans/epa-approved-regulations-pennsylvania-sip>.

The Permit fails to include any monitoring requirements to assure compliance with these limits as required by the Clean Air Act. DEP's response to Petitioners' Comments failed to adequately address the lack of monitoring requirements from the auxiliary boiler and failed to explain how its "alternative methods of determining compliance" (RTC at 14) are able to assure compliance or how the limits are legally or practicably enforceable.

2. Applicable Requirement or Part 70 Requirement Not Met

Each Title V permit must contain monitoring, recordkeeping, and reporting conditions that assure compliance with all applicable requirements. 42 U.S.C. § 7661c(a) and (c); 40 C.F.R. § 70.6(a)(3) and (c)(1); *In the Matter of U.S. Steel Corp., Edgar Thomson Plant*, Permit No. 0051-OP23 at 2, 17 (Feb. 7, 2024) (Edgar Thomson Order"); *In the Matter of Wheelabrator Baltimore, L.P.* (Wheelabrator Order), Permit No. 24-510-01886 at 10 (Apr. 14, 2010). Requirements of a preconstruction permit and requirements of a federally enforceable SIP that are incorporated into a Title V permit are "applicable requirements." 40 C.F.R. § 70.2 ("Applicable requirement"). The rationale for the selected monitoring requirements must be clear and documented in the permit record. 40 C.F.R. § 70.7(a)(5); *In the Matter of United States Steel, Granite City Works* (Granite City I Order), Order on Petition No. V-2009-03 at 7-8 (January 31, 2011).

3. Inadequacy of Permit Term

The permit fails to include monitoring requirements to assure compliance with limits for eight pollutants. Despite the fact that there are limits on these pollutants that are applicable requirements, there is no requirement in the Permit that Tenaska must monitor any of these pollutants to assure compliance with applicable emissions limits.

The Permit includes the following limits:

The emissions from the auxiliary boiler shall not exceed the following:

- (a) NO_x: 0.011 lb/MMBtu or 5.76 tpy on a 12-month rolling basis.
- (b) CO: 0.037 lb/MMBtu or 19.85 tpy on a 12-month rolling basis.
- (c) VOC: 0.0054 lb/MMBtu or 2.89 tpy on a 12-month rolling basis.
- (d) Total PM: 0.0075 lb/MMBtu or 4.00 tpy on a 12-month rolling basis.
- (e) Total PM₁₀: 0.0075 lb/MMBtu or 4.00 tpy on a 12-month rolling basis.
- (f) Total PM_{2.5}: 0.0075 lb/MMBtu or 4.00 tpy on a 12-month rolling basis.
- (g) H₂SO₄: 9.20E-06 lb/MMBtu or 4.94E-03 tpy on a 12-month rolling basis.
- (h) SO₂: 0.0006 lb/MMBtu or 0.32 tpy on a 12-month rolling basis.

Permit at 25 (Section D, #001). There are no monitoring requirements in the Permit for these limits. Permit at 25-26 (Section D). In fact, under the heading "monitoring requirements," the permit states: "No additional monitoring requirements exist except as provided in other sections of this permit including Section B (Title V General Requirements)." Permit at 25 (emphasis added). And Section B provides no relevant monitoring requirements. Permit at 6-16.

4. Issue Raised in Public Comments

Petitioners raised this issue in public comments. Comments at 12-13, Section II.e.

5. Analysis of Department's Response

In response to Petitioners' comment II.e regarding the failure of the permit to set limits on eight pollutants from the auxiliary boiler, DEP simply stated: "Please refer to General Responses 2 and 4, above." General Response 2 does not address emissions from the Auxiliary Boiler. RTC at 3-4. General Response 4 provides a "summary of the conditions which are included in the TVOP which pertain directly to monitoring, record keeping, or reporting requirements in relation to determining compliance with emission limits." RTC at 5. General Response 4 also fails to address emissions from the Auxiliary Boiler. *Id.*

DEP did respond to another Commenter regarding the lack of monitoring requirements for seven pollutants from the auxiliary boiler, stating:

Also, direct measurement of emissions from emergency and auxiliary sources is very difficult due to the very nature of the intended usage of these sources and the uncertainty of when they will be in operation. For this reason, the Department uses alternative methods of determining compliance such as reviewing fuel usage records, monitoring hours of operation for the emergency fire pump engine, preventative maintenance records, and reviewing fuel supply certification analyses.

RTC at 14.

This explanation – and in particular the implication that this boiler will operate infrequently and unpredictably – is inconsistent with DEP's assumption about how often the auxiliary boiler will run: 4,380 hours per year, or half the time. Review Memo at 24. Moreover, DEP failed to explain how any of these alternative methods apply to the auxiliary boilers or how they can assure compliance with applicable limits for any of the limited pollutants.

All emission limits in a Title V permit must be enforceable as both a legal and practical matter. In order for a limit to be enforceable under the Clean Air Act, it must be supported by monitoring, recordkeeping, and reporting requirements "sufficient to enable regulators and citizens to determine whether the limit has been exceeded and, if so, to take appropriate enforcement action." *In the Matter of Orange Recycling and Ethanol Production Facility, Pencor-Masada Oxynol, LLC*, Order on Petition No. II-2001-05 7 (Apr. 8, 2002). DEP did not provide sufficient support for failing to require monitoring to assure compliance with any of these pollutants from the auxiliary boiler.

The permitting authority's rationale for any proposed permit conditions must be clear and documented in the permit record, 40 C.F.R. § 70.7(a)(5), and "permitting authorities have a responsibility to respond to significant comments" received on a proposed permit. *In the Matter of CITGO Refining and Chemicals Co., L.P., West Plant, Corpus Christi, TX*, Order on Petition No. VI-2007-01 (May 28, 2009) ("CITGO Order") at 7. DEP did not provide clear rationale in the permit record for how a lack of monitoring requirements or alternative methods of determining compliance can assure compliance with applicable limits.

C. The Permit Impermissibly Authorizes Emissions during “Run Backs” and Fails to Limit Emissions Associated with These Events..

1. Specific Grounds for Objection, Including Citation to Permit Term

The Permit is deficient because it impermissibly authorizes emissions that are prohibited by the underlying construction authorization. Specifically, the Permit excepts unlimited emissions during “run back” events from the definition of “normal operation,” and therefore from the emissions limitations that apply only during normal operations.

DEP stated that the “Department Initiated Changes” in the final Permit include the following additions in bold and deletions in strikethrough:

(d) A run back is a protective load shed that may result in operation below the emission compliance load point for a short period of time. The run back can be triggered during normal operation if the combustion turbine experiences a safety issue, or a system parameter indicates the need for equipment protection.

(de) Normal operation is defined as all times except startup, shutdown, ~~and~~ combustion tuning, **run back, and malfunction.**¹

RTC at 40-42. This change was incorporated into the Permit at pages 37-39 (Section E, #0005(d), (e)).

The final Permit includes the following limitations on run back event durations (along with limits on startup and shutdown durations) on page 39, Section E, #008:

- (a) The durations of startups and shutdowns shall be minimized to the maximum extent possible.
- (b) Total startup and shutdown duration for each combined cycle combustion turbine shall not exceed 390 hours in any consecutive 12-month period.
- (c) Each startup event shall not exceed one and one half-hour in duration.
- (d) Each shutdown shall not exceed one half hour in duration.
- (e) Each run back shall not exceed one half hour in duration.

This new concept of “run back” events is absent from the Draft Permit and from the underlying Plan Approval. *See* PA DEP, Plan Approval PA-65-00990C (“Plan Approval”), issued June 7, 2024, attached here as Exhibit 6. The run back exception therefore has no place in the Permit.

Although the Permit addresses run backs alongside startups and shutdown events, they are clearly not the same, and they are not treated the same. First, startup and shutdown events are identified and excepted from normal operations in the underlying Plan Approval. Plan Approval at 33. By contrast, “run backs” are nowhere identified, defined, or allowed in the Plan Approval.

¹ DEP also added to the final Permit: “Each run back shall not exceed one half hour in duration.” Permit, at 39 (Section E, #009, “Operation Hours Restriction(s)”).

Second, the duration of startup and shutdown events is limited on both an individual basis (0.5 hours per event) and on a cumulative basis (390 hours in any 12-month period) in the Permit. Permit at 39. By contrast, run back durations are only limited individually (0.5 hours per event), with no limit on the number of run back events or cumulative run back hours in a year. *Id.* This means that the run back exception allows an unlimited number of run back hours, with a correspondingly unlimited amount of emitted pollution.

2. Applicable Requirement or Part 70 Requirement Not Met

All Title V permits must identify and assure compliance with all applicable requirements, and “shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.” 40 CFR § 70.6(a)(1)(i). “Applicable requirements” include, among other things, any requirements of a federally enforceable SIP, and any requirements of a preconstruction permit that must be incorporated into the Title V permit. Pac. Coast Order at 7. Title V permits “cannot relax any applicable requirements,” 57 Fed. Reg. at 32,280, and “[n]o permit [] can be less stringent than necessary to meet all applicable requirements.” 40 CFR § 70.1(c). According to EPA, “[a] title V permit that reduces the stringency of [] an applicable requirement cannot be said to “assure compliance” with the applicable requirement.” *In the Matter of Century Aluminum of South Carolina, Inc.*, Order on Petition No. IV-2023-09 (Nov. 2, 2023) (citing 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.6(a)(1)).

3. Inadequacy of Permit Term

As discussed above, DEP relaxed the applicable requirements of the Plan Approval for Tenaska by creating a new exception for “run back” events – an exception found nowhere in the Plan Approval – from normal operations, and therefore from the Plan Approval limits that apply during normal operations. To make matters worse, DEP failed to limit the number of run back events or the cumulative run back hours in a year, thereby creating an open-ended allowance for unlimited pollution from these events.

4. Issue Raised in Public Comments

Petitioners could not have raised this issue in comments as the Draft Permit included no mention of run backs. For example, the sections of the Draft Permit that defined “Startup,” “Shutdown,” and “Combustion Tuning” do not include or reference run backs, and “Normal operation” is defined as “all times except startup, shutdown, and combustion tuning,” also with no mention of runbacks. Draft Permit at 37-38, 39 (Section E. #005, #008 (“Operating Permit Terms and Conditions”). These sections correspond to sections in the final permit where the term runback was added in the final Permit.

5. Analysis of Department’s Response

The permitting authority’s rationale for any proposed permit conditions must be clear and documented in the permit record, 40 C.F.R. § 70.7(a)(5), Citgo Order, at 7. DEP failed to provide any rationale for adding the new run back provisions to the final Permit. DEP’s failure to justify this new and unlimited variance further exacerbates its fundamental illegality.

D. The Permit Does Not Include Sufficient Monitoring Requirements to Assure Compliance with Hourly PM, PM_{2.5}, or PM₁₀ Limits from the Cooling Tower Because It Only Requires Once Monthly TDS Monitoring.

1. Specific Grounds for Objection, Including Citation to Permit Term

The Permit is deficient because its monitoring and testing requirements are insufficient to assure compliance with hourly PM, PM_{2.5}, or PM₁₀ limits from the cooling tower because it only requires monthly testing of total dissolved solids (“TDS”).

The Permit establishes hourly (lb/hour) and annual (tons per year) emissions limits for total PM (filterable), PM₁₀, and PM_{2.5} from the Cooling Towers. Permit at 32, Section D.1, Conditions #001 and #002. According to PA DEP, “Tenaska monitors and minimizes circulating water TDS to reduce potential particulate emissions and ensure compliance with the emission rates.” RTC at 36. The monitoring requirements associated with the abovementioned PM emission limits are therefore focused on TDS in circulating water (Permit at 32, “Monitoring Requirements”) and the permit limits total dissolved solids in the cooling tower water to 2,000 parts per million. *Id.*, Section D, Condition #002.

Despite the fact that PM emissions are subject to an hourly limitation, the Permit only requires that Tenaska “sample, analyze, and record the circulating water TDS content on a monthly basis.” Permit at 32, Section D.III, Conditions #003, #004.

Monthly sampling of the circulating water TDS content is not sufficient to assure compliance with hourly PM limits. DEP should require daily sampling of the circulating water TDS content to assure that TDS concentrations are consistent with hourly PM limits at all times.

2. Applicable Requirement or Part 70 Requirement Not Met

According to EPA, “the time period associated with monitoring or other compliance assurance provisions must bear a relationship to the limits with which the monitoring assures compliance.” *Edgar Thomson Order*, at 12 (quoting citing *In the Matter of U.S. Steel Corp., Clairton Coke Works*, Order on Petition Nos. III-2023-5 & III-2023-6 at 9 (Sept. 18, 2023) (“*Clairton Order*”). and citing 40 C.F.R. § 70.6(a)(3)(i)(B); *In the Matter of Georgia-Pacific Consumer Operations LLC, Crossett Paper Operations*, Order on Petition Nos. VI-2018-3 and VI-2019-12 at 18–19 (Feb. 22, 2023) (*Crossett Order*); and *MCRRF Order* at 9).² The D.C. Circuit has noted that the mere existence of periodic monitoring requirements is not always sufficient to assure compliance, 536 F.3d at 675-77, and as an example explained that annual testing is unlikely to

² EPA continues by stating that “To assist with these case-by-case determinations, the EPA has described five factors permitting authorities may consider as a starting point in determining appropriate monitoring for a particular facility: (1) the variability of emissions from the unit in question; (2) the likelihood of a violation of the requirements; (3) whether add-on controls are being used for the unit to meet the emission limit; (4) the type of monitoring, process, maintenance, or control equipment data already available for the emission unit; and (5) the type and frequency of the monitoring requirements for similar emission units at other facilities. *In the Matter of CITGO Refining and Chemicals Company, L.P.*, Order on Petition No. VI-2007-01 at 7–8 (May 28, 2009) (*CITGO Order*).”

assure compliance with a daily emission limit. *Id.* at 675. The same logic applies here – monthly testing is unlikely to assure compliance with an hourly limit.

3. Inadequacy of Permit Term

Despite the fact that PM emissions are subject to an hourly limitation, the Permit only requires that Tenaska “sample, analyze, and record the circulating water TDS content on a monthly basis.” Permit at 32, Section D.III, Conditions #003, #004.

Monthly sampling of the circulating water TDS content is not sufficient to assure compliance with hourly PM limits. DEP should require daily sampling of the circulating water TDS content to assure that TDS concentrations are consistent with hourly PM limits at all times.

4. Issue Raised in Public Comments

Petitioners raised this comment in Section II.d, on page 12 of the Comments. Commenters stated that the permit should require at least daily monitoring of TDS from the cooling tower water, instead of monthly monitoring, to assure compliance with hourly limits. Petitioners commented that DEP should require more frequent monitoring of TDS – either through direct sampling or through establishing a TDS-to-conductivity ratio and then monitoring conductivity more frequently.

5. Analysis of Department’s Response

DEP failed to provide a clear rationale to describe how water monitoring for TDS on a monthly basis is sufficient to assure compliance with hourly limits. The Review Memo likewise fails to provide a rationale. DEP’s Comment Response Document states that “Tenaska is already performing daily monitoring of total dissolved solids from the cooling tower water.” RTC, at 33, Response II.d. DEP also stated in response to another commenter:

The results of monthly total dissolved solids (TDS) sampling have shown to be consistently less than the operating permit limit of 2,000 parts per million (ppm). On August 14, 2025, a full compliance evaluation (FCE) inspection of the TWGS was conducted by Department Air Quality Specialists Cody Frick and Joey Engelmeier. Mr. Frick noted in his inspection report that the highest value noted was 1,363.2 ppm in November of 2024. Mr. Frick also noted that although the operating permit requires monthly monitoring of the TDS content, Tenaska has records that the monitoring is actually being done more frequently on both a daily and monthly basis.

RTC at 14.

Tenaska’s voluntary daily sampling is not legally or practically enforceable. Unless the daily monitoring is required in the Title V permit and required by the Title V permit to determine compliance with emission limits in the Permit, it cannot assure compliance with permit limits.

However, the fact that Tenaska is already voluntarily conducting daily monitoring is relevant to the arbitrariness of DEP's decision. Clearly there would be no additional burden on Tenaska if DEP were to require daily monitoring (which is happening anyway).

As for DEP's claims that monthly monitoring results have been "consistently less" than the 2,000 ppm limit, this is neither an adequate nor a persuasive excuse for impermissibly weak monitoring. The maximum TDS level cited by DEP (1,363.2 ppm) is over 68% of the limit. This does not leave much of a margin for error. Given the likelihood of intra-monthly variability, it is not inconceivable that hourly TDS concentrations have exceeded 2,000 ppm during the cited period of record. EPA addressed this issue in its NMWDA Order:

Given the demonstrated variability in HCl emissions and how close some of the reported 3-hour block averages are to the 1-hour emission limit, the Petitioners have demonstrated that, on this record, a 3-hour block average of reported HCl emissions data is insufficient to assure compliance with the 1-hour HCl emission limit, even if it were enforceable, because it can mask spikes in HCl concentrations that may violate the 1-hour emission limit.

NMWDA Order at 11. So too here. Since monthly monitoring "can mask spikes" in daily TDS concentrations, especially where, as here, the monthly values are approaching the limit, the fact that past monthly monitoring has not exceeded the TDS limit is not sufficient to assure future compliance with the 2,000 ppm limit.

In short, the record cited by DEP does not indicate a low likelihood of a violation, but instead indicates that more frequent monitoring is needed to assure compliance with permit limits.

E. The Permit Fails to State How Monitoring of Circulating Water TDS Will Be Used to Determine Compliance with PM Emission Limits.

1. Specific Grounds for Objection, Including Citation to Permit Term

The Permit requires measurement of TDS in circulating water, ostensibly to "reduce potential particulate emissions and ensure compliance with the [particulate matter] emission rates." RTC at 36. The Permit also states that the permittee must keep records regarding "PM, PM₁₀ and PM_{2.5} emissions on a 12-month rolling basis based on the measured parameters." Permit at 32. However, nowhere in the permit does DEP say what these parameters are, or explain how, mathematically, the concentration of TDS in circulating water and any other "parameters" are related to PM emissions. Without this relationship, it is impossible for anyone to know whether the TDS concentrations in circulating water are within a range that will assure compliance with PM emissions limitations. DEP must provide the relationship between circulating TDS and PM emissions rates in order for the public (and, for that matter, DEP) to be able to use TDS data to evaluate whether PM emissions limits are being met.

2. Applicable Requirement or Part 70 Requirement Not Met

The calculations used to relate TDS in circulating water to PM emissions are a core, necessary component of a Title V permit, and the failure to include these calculations or methodologies render a permit unable to assure compliance with permit limits. EPA has objected to Title V

permits for failing to assure compliance with applicable emission limits where the relevant Title V permit does not clearly identify the calculation methods used to comply with those limits. *See, e.g., In the Matter of Gulf Coast Growth Ventures, LLC*, Order on Petition No. VI-2021-3 (May 12, 2022) (“Gulf Coast Order”) at 15–20. “Questions concerning whether a title V permit contains sufficient monitoring—or, more precisely, whether monitoring or emission calculation methodologies contained in another document (e.g., a permit application) are properly incorporated by reference into a title V permit—are core title V issues.” *Id.* at 18. More recently, EPA objected to an operating permit for the Valero Houston Refinery tank farm for failing to clearly identify the “methodology . . . to use in calculating emissions.” *In the Matter of Valero Energy Partners, L.P., Valero Houston Refinery Tank Farm*, Order on Petition No. VI-2024-30 at 10-11 (July 18, 2025) (“Valero Order”).

3. Inadequacy of Permit Term

As described above, DEP’s failure to explain how PM emissions are calculated from TDS means that the Permit fails to assure compliance with PM emissions limitations. An adequate Permit would provide the calculations or methodologies used to estimate PM emissions, including all relevant parameters.

4. Issue Raised in Public Comments

Petitioners raised this comment in Section II.d, on page 12 of the Comments:

DEP . . . fails to specify anywhere in the permit what [emissions recording language] means or how such measurements and recordings will be calculated. The Draft Permit must specifically set forth, in the permit itself, the method by which PM emissions will be recorded to ensure these emissions are being recorded in a way that will ensure compliance with permit limits.

5. Analysis of Department’s Response

DEP responded to this comment by saying that “the PM calculation method for the cooling tower is presented in the TVOP application on page 114. The Department does not believe that this method must be specified in the TVOP as an operating permit condition.” RTC at 33. DEP is wrong, at least insofar as they believe that the permit can remain silent as to the calculation method. Page 114 of the application does provide equations that Tenaska used to estimate potential to emit. This is not the same thing as actual emissions over the course of a permit term. Although it may be possible to use the equations on page 114 to estimate emissions of PM from the cooling tower, the Permit does not direct the reader to the application. The only way someone would know where to find the calculation method would be for them to read the Response to Comments. This is exactly the kind of problem that EPA objected to in the Valero refinery tank farm order cited above. Valero Order at 10 (“While TCEQ’s RTC indicates that the application representation that contains these calculations is found at WCC content ID 5407761, this information resides in the permit record rather than the NSR permit or the title V permit, rendering it inadequately incorporated”) (emphasis added). So too, here: Since the Permit does not include the calculation method, or even a citation to the application, the calculation method

has been “inadequately incorporated” and is not evident on the face of the Permit. DEP must revise the Permit to include the cooling tower PM calculation method.

F. The Permit Fails to Assure Compliance with VOC Emissions Limitations by Failing to Require Meaningful VOC:CO Correlations Based on VOC Stack Testing.

1. Specific Grounds for Objection, Including Citation to Permit Term

Permit Condition E #015 (Permit page 40) requires, “[i]n order to ensure continuous compliance with the steady state VOC limits of Conditions E #006(c) and #007,”³ that the permittee use carbon monoxide (CO) data from a continuous emission monitoring system (CEMS) and a “CO:VOC Correlation Factor” to estimate VOC emissions. This method is unreliable, and will not assure compliance with the VOC emissions limits, for two reasons.

First, DEP does not explain how these numbers were derived. They were not in the permit application or in the Draft Permit, as Petitioners noted in comments. Comments at 9-10. In its Response to Comments, DEP stated that it has now “required Tenaska to develop CO/VOC correlation factors using CO CEMS data.” RTC at 31. Perhaps Tenaska did this, and perhaps the correlation factors in the Permit came from Tenaska. But how? To establish a correlation, one must have information about both variables being correlated. It would be impossible to derive a correlation factor based only on CO CEMS data. One must assume that Tenaska derived correlation factors from CO CEMS data and VOC stack test data, but those details are absent from the record.

Second, unlike other comparable permits, this Permit lacks any requirement to verify or revise the correlation factors as new data become available.

In order to assure compliance with the Permit’s VOC limits, DEP must require that CO:VOC correlation factors be developed using CO CEMS data and VOC stack test data and CO CEMS data collected during VOC stack tests and must require that these factors be revisited with each stack test to ensure that they remain valid.

2. Applicable Requirement or Part 70 Requirement Not Met

It is the Title V permitting authority’s responsibility to ensure that a proposed permit “‘set[s] forth’” conditions sufficient “‘to assure compliance with all applicable requirements’” of the Clean Air Act. *In the Matter of Sandy Creek Services, LLC, Sandy Creek Energy Station, McLennan County, TX*, Order on Petition No. III-2018-1 (June 30, 2021) (“Sandy Creek Order”) at 12 (quoting 42 U.S.C. § 7661c(c)). Among other things, a Title V permit must include compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1).

³ Permit Condition E #006(c) imposes limits on the concentration of VOCs in flue gas (ppmvd) and on hourly VOC emissions (lb/hr). Permit Condition E #007 imposes a separate RACT limit on VOCs in flue gas.

3. Inadequacy of Permit Term

The correlation factors used to estimate VOC emissions in Condition E #015 of the Permit are unreliable and cannot assure compliance with the Permit's VOC limits. DEP introduced these factors for the first time in the final Permit, failed to explain how they were derived, and failed to require ongoing updates to the correlation factors using VOC stack test data and simultaneous CO CEMS data. As Petitioners explained in Comments, other Title V permits, including PA DEP Title V permits for natural gas-fired combined cycle turbines, have far more rigorous requirements. For example, the Title V permit for the Birdsboro Power Project in Birdsboro, PA ("Birdsboro Permit")⁴ requires that CO:VOC correlation factors be developed "by simultaneously operating the Department-certified CO CEMS during the VOC emissions test" and requires that "subsequent VOC emissions testing per Section D Condition 010 will be conducted, or more frequently at the Department's request, in order to verify the CO/VOC emissions correlation factor." Birdsboro Permit at 24. The Title V permit for the Keys Energy Center in Brandywine, MD requires that "the emission correlation shall be verified annually by stack test, or a new correlation established."⁵ It is important to routinely verify or update correlation factors because these correlations are affected by the condition of the oxidation catalyst, which degrades over time. *See* Comments at 9.

4. Issue Raised in Public Comments

Petitioners identified the lack of any CO:VOC correlation factor in the Draft Permit, and raised the issue of establishing and verifying reliable correlation factors, in Section II.a.ii of Comments. Comments at 9.

5. Analysis of Department's Response

Since the Draft Permit lacked any CO:VOC correlation or related permit language, DEP responded to this comment in part by adding new permit language and adding correlation factors. In its Response to Comments, DEP stated that it has now "required Tenaska to develop CO/VOC correlation factors using CO CEMS data." RTC at 31. The new correlation factor language appears in the final Permit at 40, Condition E #015. However, DEP did not explain how these correlation factors were derived, and DEP did not respond to our comments regarding the need for the establishment of correlation factors using simultaneous VOC stack tests and CO CEMS data or the need for verification of correlation factors with each new stack test.

VI. CONCLUSION

For the foregoing reasons, and as explained in Petitioners' timely-filed public comments, the Permit is deficient. The Department's Response to Comments also failed to address Petitioners' significant comments. Accordingly, the Clean Air Act and EPA's 40 C.F.R. Part 70 rules require that the Administrator object to the Permit.

⁴ DEP Title V/State Operating Permit No. 06-05154 for the Birdsboro Power LLC/Birdsboro Power Project.

⁵ MDE Permit No. 24-033-2737 at 40 (Table IV-1:1.3.E), available at <https://mde.maryland.gov/programs/permits/AirManagementPermits/Documents/Public-Review/new%20Title%20V%20public%20review/PSEG%20Keys%20Docket%202.pdf>

Respectfully submitted this 15th day of September, 2026 on behalf of the Environmental Integrity Project and Mountain Watershed Association,

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Enclosures

1. Exhibit 1: Draft Permit
2. Exhibit 2: Review Memo
3. Exhibit 3: Comments
4. Exhibit 4: Permit
5. Exhibit 5: RTC
6. Exhibit 6: Plan Approval

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