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Scott R. Williamson| Regional Program Manager
Department of Environmental Protection
Waterways and Wetlands Program
Southcentral Regional Office
909 Elmerton Ave.
Harrisburg, PA 17110

Subject: Request for Informal Hearing - PADEP/CCCD Review of PAX-1 Data
Center Project – NPDES PAG-02 General Permit PAC210079

Dear Mr. Williamson:

My law office represents Andrew and Rachael Dymski and Jody and Stanley Shivell with respect to the Cumberland County Conservation District (“CCCD”) approval of coverage under NPDES General Permit PAG-02, PAC210079, to discharge stormwater during construction in Middlesex Township, Cumberland County.

The Dymskis and the Shivells request an informal hearing pursuant to 25 Pa. Code § 102.32(c). The Dymskis reside at 430 Bernheisel Bridge Road, Carlisle, Cumberland County and the Shivells reside at 8 Teaberry Drive, Carlisle, Cumberland County. The central structural fact is this: a 693-acre hyperscale data center is being permitted by bootstrapping a residential-era general stormwater permit (PAG-02 PAC210079, originally issued in 2019 for a 58-unit, 15.3-acre residential subdivision) through four sequential amendments (A-1 transfer through A-4 Phase 1A/1B), rather than through an individual NPDES permit with full public notice.

They learned of the approval of coverage for PAG-02 amendment no. 4 on May 18, 2026 when Mr. Dymski received a response to the right to know request from CCCD of the same date. They are aggrieved by CCCD’s approval of PAG-02 amendment 1, the transfer of the general permit where the transfer application contained false statements regarding compliance history. The PAG-02 amendment 2 for the PPL laydown area should have required an individual NPDES permit. Similarly, the PAG-02 amendment 3 for the water main relocation should have been

denied as a result of ongoing violations. PAG-02 amendment 4 is a major modification of the general permit that was not subject to public notice and comment. All of these amendments violate the Environmental Rights Amendment, and due process rights to adequate notice and opportunity to comment.

CLUB ROAD PROPERTIES LTD'S CUMBERLAND KNOLL RESIDENTIAL DEVELOPMENT- PAC210079- PAG-02

It is instructive to chart the history of this PAG-02 general permit. On December 18, 2018, CCCD approved PAG-02 issued to Club Road Properties LTD for a residential development titled Cumberland Knoll. The Notice of Intent ("NOI") requesting coverage under the general permit is dated June 6, 2018. The January 12, 2019 edition of the **Pennsylvania Bulletin** published notice of issuance of PAG-02, PAC210079 coverage to Club Road Properties Limited, 4400 Deer Path Road, Harrisburg, PA 17110. The notice does not identify the location of the property subject to the general permit. Here is the link to the January 12, 2019 **Pennsylvania Bulletin**:

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol49/49-2/51b.html&search=1&searchunitkeywords=PAC210079>

On February 9, 2019, an identical notice of approval of coverage under PAG-02, PAC210079 was published in the **Pennsylvania Bulletin**:

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol49/49-6/188c.html&search=1&searchunitkeywords=PAC210079>

There is no explanation for the publication of two notices of issuance of PAC210079. Neither notice provided sufficient information for members of the public to determine whether they may be affected where the location of the permitted activity is not included in the published notice.

RENEWAL OF COVERAGE UNDER PAC210079 FOR CLUB ROAD PROPERTIES LTD

On September 5, 2023, CCCD approved renewal of coverage under general permit PAC210079 for Club Road Properties Limited. The renewal was based on a NOI submitted August 7, 2023, that was deemed complete on August 29, 2023. The description of the project in the NOI was "Residential development of 58 total units on 15.3 acres with public utilities and open space. Common plan of development 10 phases." A search of the **Pennsylvania Bulletin** for PAC210079 did not reveal notice of approval of the renewal of PAG-02. However, over one year later, the following was published in the January 4, 2025 **Pennsylvania Bulletin**:

II. Final Action(s) on PAG-01 and PAG-02 General NPDES Permit NOIs.

PAC210079	PAG-02	Issued	Club Road	Middlesex	Cumberland County
	General		Properties, LP	Township	Conservation District
	Permit		4400 Deer	Cumberland	310 Allen Road

Path Road County
Suite 1
Harrisburg,
PA 17110

Suite 301
Carlisle, PA 17013
717-240-7812

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol55/55-1/12b.html&search=1&searchunitkeywords=PAC210079>>

Once again, there is no identification of the location of the property subject to this PAG-02. Nor does the notice state whether it is renewal of the general permit.

THE GOVERNOR'S PERMIT FAST TRACK PROGRAM

On November 19, 2024, Governor Shapiro issued Executive Order 2024-04 establishing a Permit Fast Track Program. On January 22, 2025, the Governor's Permit Fast Track Program accepted the following project into fast track status:

Pennsylvania Digital 1 (PAX-1) is a three-campus hyperscale data center development located on approximately 700 acres in Middlesex Township, Cumberland County, Pennsylvania. Designed to meet the growing demand for cloud computing and digital infrastructure, the project includes the construction of three data center campuses over four million square feet. Each campus will include six purpose-built data center buildings supported by dedicated 450 MW electrical substation. The overall site will be anchored by a newly planned PPL 500 kV to 138 kV switching station, with delivery of 1.35 gigawatts (GW) of capacity with expandability up to 1.8 GW, comprising scale and speed for AI data center development.

We have not found any public notice of the acceptance of this hyperscale data center into the fast track program until mid-July 2025 at an energy summit attended by President Trump and Senator McCormack.

VIOLATIONS UNDER PAC210079

On February 5, 2025, CCCD inspection identified violations of the PAC210079. Inspection report 25-01 provided the following observations:

Inspection of Cumberland Knoll Phase 1 site.

Sediment Basin A not installed per plans.

-Temporary baffle, riprap apron, trash rack, and skimmer with stone landing berm not installed in Sediment Basin A (Photos 1 and 2).

-The Staging of Earth Moving Activities is not being completed in sequential order, relating to Sediment Basin A not being completed prior to constructing swales and stripping topsoil.

On March 31, 2025, CCCD performed a follow up inspection and identified continued violations of PAC210079. Inspection report 25-02 provided the following observations:

Follow-up inspection of Cumberland Knoll Phase 1 site. Sediment Basin A remains not installed per plans.

- Trash rack and skimmer with stone landing berm installed in Sediment Basin A (Photo 1).

- Temporary baffle not installed in Sediment Basin A (Photo 2).

- Riprap apron G3 at pipe outlet with flared end section not installed in Sediment Basin A (Photo 3).

- Pipe outlet from Sediment Basin A and riprap apron G at pipe outlet with flared end section not installed (Photo 4).

- Sediment Basin A is not temporarily seeded (Photo 2).

- Riprap apron M is not installed per plans (Photo 5).

- Swale 14 is not topsoiled, seeded, mulched, and matted (Photo 6).

- Areas of the site that have been idle for four (4) or more days are not temporarily stabilized.

- The Staging of Earth Moving Activities is not being completed in sequential order, relating to Sediment Basin A not being completed prior to constructing swales and stripping topsoil.

No documents were provided by CCCD in response to right to know request as to whether the cited violations were corrected.

Meanwhile, on April 30, 2025, representatives of the Governor's Office and the data center development agents met with DEP and perhaps CCCD to discuss among other topics, "Use of a phased permitting approach with base NPDES permit and subsequent amendments." The affected public was not informed of this meeting, whether the data center was included in a permit fast track program and whether it would succeed to the existing PAC210079.

PAG-02 IS TRANSFERRED TO DATA CENTER DEVELOPER

On August 5, 2025, CCCD approved the transfer of coverage under PAC210079 from Club Road Properties LTD to Carlisle Development Partners, LLC. Public notice of the transfer was not published in the **Pennsylvania Bulletin**. The application to transfer the general permit was originally submitted July 9, 2025. The application was updated and signed July 29, 2025. CCCD issued comments on the transfer application, including requesting "proof that the permittee has recorded an instrument with the Recorder of Deeds that assures disclosure of post-construction stormwater management (PCSM) best management practices (BMPs) and long-term operation and maintenance of those BMPs." The former owner does not have documentation of the O&M being recorded.

On August 7, 2025, DEP issued a Notice of Violation (“NOV”) to Club Road Properties, LTD resulting from an inspection on July 9, 2025. The narrative from the August 7 NOV is attached. A waterline was installed through wetland without a permit. The application for transfer contained false statements. The existing permittee certified it was in compliance and there were no violations of any DEP regulation, permit, order, or schedule of compliance at this or any other facility. The agent for the proposed transferee agreed to submit an after-the-fact permit for the utility line work that was conducted without prior authorization. The ATF permit was not applied for until October 16, 2025.

PAC210079 should not have been transferred.

THE PPL LAYDOWN AREA MINOR AMENDMENT

On September 8, 2025, CCCD approved a minor amendment to PAC210079 following submission of the NOI on August 15, 2015. The applicant Carlisle Development Partners, LLC is proposing to construct a secure ~5 acre stone laydown yard. The NOI stated this work is included within the current Cumberland Knoll limits of disturbance and stormwater runoff will be managed by the existing basin on site. The applicant denied there were any violations under the permit. The minor amendment was not subject to notice and comment and the approval was not published in the **Pennsylvania Bulletin**. The project is no longer residential, yet this change of use was treated as a minor amendment.

THE WATER MAIN RELOCATION

The third amendment to PAC210079 was approved by CCCD on December 30, 2025. The NOI was received October 20, 2025. A resubmission of the NOI was submitted December 18, 2025. Although the NOI characterized the water main relocation as a major amendment, there does not appear to be notice to Middlesex Township or Cumberland County nor publication in the **Pennsylvania Bulletin**. This is the first express “693-acre data center” in the permit record.

The amendment to PAC210079 states Carlisle Development Partners, LLC is authorized to discharge from a project site known as Pennsylvania Digital 1 (PAX-1) - Water Main Relocation, located in Middlesex Township, Cumberland County to UNT Conodoguinet Creek via Wetland; UNT Conodoguinet Creek via Channel in accordance with the effluent limitations, monitoring and reporting requirements, best management practices (BMPs), stormwater control measures (SCMs) and other conditions set forth in Parts A, B, and C herein.

Module 1 to the October 2025 NOI included the following statement, “Recently, earth disturbance has begun for land development projects for Carlisle Development Partners, LLC.” However, a CCCD site inspection on February 11, 2026 stated “earth disturbance commenced January 6, 2026.” CCCD observed “inspection of the PPL Laydown Area and stone stockpile to the west of the laydown area.” The observations were the following:

1. The existing sediment basin to the SW of the PPL laydown area is covered in ice and may not function as designed. The maintenance request was communicated to Liberty and they acknowledged it will be addressed.

On April 8, 2026, CCDD performed another inspection and stated "earth disturbance commenced March 16, 2026."

Three dates were provided for the commencement of earth disturbance under PAC210079.

PHASE 1A PPL SUBSTATION AND PHASE 1B CAMPUS 1 CONSTRUCTION AND STORMWATER

On May 18, 2026, CCCD approved a fourth amendment to PAC210079. The NOI was submitted by Carlisle Development Partners, LLC on November 26, 2025 while the third amendment was pending. However, the amendment was issued to Petri Ottavainen, not the applicant and existing permittee Carlisle Development Partners, LLC. On November 21, 2025, Act 14 notices were sent to Middlesex Township and Cumberland County. The respective cover letters had the following RE lines:

"Pennsylvania Digital 1 (PAX-1) - NPDES Major Modification - Phase 1A/1B"
"Chapter 105 - GP-7- Minor Road Crossing"

We are not aware of any response from Middlesex Township and Cumberland County to the erroneous Act 14 notices. The NOI was not deemed complete until CCCD issued two completeness deficiency letters. CCCD's review identified 81 technical deficiencies in the E&S and PCSM plans. On May 1, 2026, the NOI was subject to elevated review when there remained 21 technical deficiencies.

DEP should have denied coverage under the general permit when there were violations of the general permit conditions as documented in multiple inspections. 25 Pa. Code § 92a.54(e). The transfer of the general permit from a residential development to a massive 693-acre data center when there was ongoing noncompliance never should have been approved. An individual permit was required.

The multiple amendments were never subject to notice and public comment, violating due process rights and a breach of the Environmental Rights Amendment and constitutional duties of prudence, loyalty and impartiality.

Sincerely,



William J. Cluck

CC: Andrew and Rachael Dymski
Jody and Stanley Shivel

EXHIBIT A

Narrative

On July 9, 2025, Felicia Lamphere of the Pennsylvania Department of Environmental Protection (PADEP) conducted an inspection located at 248 Country Club Lane, Middlesex Township, Cumberland County (Parcel ID 21-06-0015-015) ("SITE") concerning a recent installation of a water line utility through an UNT to the Conodoguinet Creek. Country Club Road, Ltd. and David H. Martin Excavating, LLC are the responsible parties for this activity. The parcel was previously owned by KMWW. Carlisle Development Partners, LLC took ownership on July 14, 2025 according to Cumberland County Tax Parcel Viewer. The project was for an Offsite Sanitary Force Main for the Cumberland Knoll Phase 1 project which a Notice of Intent (NOI) was submitted on August 7, 2023 to the Cumberland County Conservation District (CCCD).

The site inspection documented the following:

1. A waterline was installed through wetland C/Channel 1 per the Project Bolt Data Base Center Wetland Delineation Report prepared by Ambrook Consulting, LLC dated June 12, 2024. The channel was documented to have defined bed and banks and has a drainage area calculated to be approximately 79 acres. This parcel was not owned by Country Club Road Ltd. at the time of the installation and was not included in the Limit of Disturbance (LOD) per the NPDES permit (PAC210079).
2. Silt sock was documented around the earth disturbance. Sparce vegetation was documented in the presumed floodway (50 feet from top of bank) of the UNT.

The Dam Safety and Encroachments Act, as amended, 32 P.S. Section 693.1 et seq., and the rules and regulations adopted thereunder at 25 Pa. Code Chapter 105, require that a written permit be obtained from DEP prior to encroaching in a watercourse, floodway, body of water, or wetland. Also, permits from the U.S. Army Corps of Engineers may be required for work in wetlands or waters of the United States.

Excavating, earth disturbance, and placement of fill material into a floodway, watercourse, or wetland without a permit constitutes a violation of the Dam Safety and Encroachments Act, as amended, 32 P.S. Section 693.1 et. seq., and the rules and regulations adopted thereunder at 25 Pa. Code Chapter 105 and may result in mandatory restoration of the affected area at the violator's expense and/or prosecution. **Our records indicate that no such permit has been issued for the activities described.**

The requested voluntary corrective actions are:

1. Apply for an After the Fact (ATF) permit for the utility line work that was conducted without out prior authorization.
2. The NPDES permit, once transferred is requested to include this utility crossing and impacts to waters of the commonwealth.

Mr. Justin Ross (Livic Civil) agreed via email on July 31, 2025, to submit a permit application for review to Department on the owner's behalf (Carlisle Development Partners, LLC) on or about September 14, 2025, unless a different date is agreed to in writing. All correspondences are to go directly to Mr. Ross.

Please be advised that any future earth disturbance activities in or around a body of water of this commonwealth may require a permit.

Please contact me with any questions or concerns at 717.705.4792 or at Flamphere@pa.gov.