

**ANDREW DYMSKI AND RACHAEL
DYMSKI, STANLEY SHIVELL AND
JODY SHIVELL**

V.

and

Permittee

2026 - _____

65144.1 8/13/26

sequential amendments (A-1 transfer through A-4 Phase 1A/1B), rather than through an individual NPDES permit with full public notice. This phased approach to amending the general permit was the subject of consultation between the Office of Transformation and Opportunity, the Department and Cumberland County Conservation District beginning in 2025. The Governor's Permit Fast Track Program guidance requires a Coordinated Project Plan for each covered project, and that plan must include the project sponsor's plans for public engagement and outreach. No Coordinated Project Plan has been produced to Appellants, and Appellants are aware of no public engagement or outreach concerning these permit actions. The result deprived Appellants of adequate notice and opportunity to comment, failed to address environmental justice concerns, failed to implement the Department's duties under the Environmental Rights Amendment, violated Chapter 92a regulations and was arbitrary and capricious, contrary to law, an abuse of discretion and was unreasonable.

The Parties

2. Appellants Andrew and Rachael Dymski are adult individuals who are residents of Middlesex Township, residing at 430 Bernheisel Bridge Road, Carlisle, Cumberland County, Pennsylvania, 17015. Andrew's phone number is [REDACTED] and his email address is [REDACTED] Rachael's phone number [REDACTED] Her email address is [REDACTED].
3. Appellants Jody and Stanley Shivell are adult individuals who are residents of Middlesex Township, residing at 8 Teaberry Drive, Carlisle, Cumberland County, Pennsylvania, 17015. Stanley's phone number [REDACTED] His email address is [REDACTED]

[REDACTED] Jody's phone number [REDACTED] Her email address is [REDACTED]

4. Appellants have standing to bring this Appeal. Appellants' interests in the quality of the receiving waters, the integrity of the surrounding watershed, and the lawful administration of the Commonwealth's permitting programs have been directly, adversely, and concretely affected by the District and the Department's actions described herein. The Dymski residence is on Bernheisel Bridge Road. The applicant's own submittals locate the Phase 1A PPL substation "along the north side of Country Club Road, approximately 4,600 feet west of the intersection with Bernheisel Bridge Road in Middlesex Township, Cumberland County." The applicant's own plan sets identify the Shivell property, Cumberland County parcel 21-05-0433-239, in a numbered list of property owners appearing on the plan sheets.
5. Cumberland County Conservation District ("District") is located at 310 Allen Road, Suite 301, Carlisle, PA 17013. The District approved authorization of coverage under the NPDES general permit and each of the four amendments at issue in this Appeal.
6. Scott R. Williamson, Program Manager, Waterways and Wetlands Program is the Department official who issued the July 16, 2026 letter to counsel for Appellants informing counsel of the Department's admission of a "clerical error" in authorizing coverage under the fourth amendment to NPDES General Permit PAC210079, but otherwise rejected Appellants' request to amend or overturn the District's amendments. Mr. Williamson's address is Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110.

7. Vince McCollum, Assistant District Manager is the District official who authorized the first and second amendments to PAC210079. Thomas Swartz, E&S Program Manager is the District official who authorized coverage under the third amendment to PAC210079. Mr. McCollum, District Manager authorized the fourth amendment to PAC210079. Their address is 310 Allen Road, Suite 301, Carlisle PA 17013.
8. The Department is the agency responsible for administering Pennsylvania's NPDES permitting program, including the PAG-02 General Permit, pursuant to the Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§ 691.1–691.1001; the Pennsylvania Clean Streams Law implementing regulations at 25 Pa. Code Chapters 92a and 102; and the Federal Clean Water Act, 33 U.S.C. §§ 1251–1387.
9. Club Road Properties, LTD was the original permittee under PAC210079 and its renewal until it was transferred through the first amendment. Club Road Properties, LTD has an address of 4400 Deer Path Road, Harrisburg PA 17110.
10. Carlisle Development Partners, LLC is the permittee subject to the requirements and conditions of the amendments to NPDES General Permit PAC210079. Carlisle Development Partners, LLC has an address of 1660 International Drive, Ste 500, McLean, VA 22102.
11. The subject of the Determination is located at Country Club Road, Carlisle, Middlesex Township, Cumberland County. NPDES General Permit PAG-02 authorized coverage under number PAC210079. It was amended four times for the same property that began as a residential development and morphed into a massive hyperscale data center as described below.

12. The project was initially known as Cumberland Knoll when on December 18, 2018, the District authorized coverage under PAC210079 for Club Road Properties, LTD to discharge stormwater during construction of a residential development of 58 units on 15.3 acres. The February 9, 2019 edition of the **Pennsylvania Bulletin** published notice. The published notice identified the permit number, the applicant's out-of-state mailing address, the municipality and county, and the receiving stream. It did not identify the project site by name, street address, parcel, acreage, limit of disturbance or discharge point. It does not state whether the action noticed is an original approval, a renewal, an amendment or transfer. The February 9, 2019 **Pennsylvania Bulletin** and the cover page of PAC210079 are attached as Exhibit A.
13. PAC210079 was renewed September 5, 2023 with an expiration date of December 7, 2024. However, a search of the **Pennsylvania Bulletin** did not disclose published notice of the renewal of PAC210079. The cover page of the renewal is attached as Exhibit B.
14. The January 4, 2025 edition of the **Pennsylvania Bulletin** published notice of the issuance of coverage under PAC210079 to Club Road Properties, LP with an address of 4400 Deer Path Road, Suite 1, Harrisburg PA 17110. The published notice identified the permit number, the applicant's out-of-state mailing address, the municipality and county, and the receiving stream. It did not identify the project site by name, street address, parcel, acreage, limit of disturbance or discharge point. It does not state whether the action noticed is an original approval, a renewal, an amendment or transfer. A copy of the January 4, 2025 **Pennsylvania Bulletin** notice is attached as Exhibit C.
15. On August 5, 2025, the District approved transfer of the PAG-02 to Carlisle Development Partners, LLC authorizing a discharge from a project site known as Project

Bolt. The transfer was an amendment to PAC210079A-1. The transfer application did not identify the scope of Project Bolt. A copy of the cover page of PAG-02 authorizes discharge from a project site known as Project Bolt beginning December 8, 2024 and will expire on December 7, 2029. A copy of the cover page is attached as Exhibit D.

16. On September 8, 2025, the District issued a letter approving a minor amendment to PAC210079 to construct a stone laydown area to serve as a delivery location and staging area for materials necessary to upgrade the transmission lines and future PPL switchyard on site for a project identified as Cumberland Knoll (PPL Laydown). A search of the **Pennsylvania Bulletin** did not reveal notice of the Cumberland Knoll (PPL Laydown). The permit number was PAC210079A-2. A copy of the letter is attached as Exhibit E. A copy of the PAG-02 permit was not produced in response to right to know requests.
17. On December 30, 2025, the District approved a major amendment to PAC210079 authorizing Carlisle Development Partners, LLC to discharge from a project site now identified as Pennsylvania Digital 1 (Pax-1) – Water Main Relocation. The project is described as a 693-acre data center development. Notice of PAC210079A-3 was published in the January 31, 2026 edition of the **Pennsylvania Bulletin**. The published notice identified the permit number, the applicant's out-of-state mailing address, the municipality and county, but did not identify the receiving stream. It did not identify the project site by name, street address, parcel, acreage, limit of disturbance or discharge point. It does not state whether the action noticed is an original approval, a renewal, an amendment or transfer. A copy of the January 31, 2026 **Pennsylvania Bulletin** notice and cover page of the amended PAC210079 are attached as Exhibit F.

18. On May 18, 2026, the District approved a major amendment to PAC210079 authorizing Mr. Petri Ottavainen to discharge from a project site known as Pennsylvania Digital 1 (PAX-1) Phase 1A/1B. The Department corrected the identity of the permittee in its response to Appellants informal hearing. Notice of the correct permittee, Carlisle Development Partners, LLC was published in the July 25, 2026 edition of the **Pennsylvania Bulletin**. This constitutes the fourth amendment of PAC210079. A copy of the cover page of the erroneously issued amendment and the July 25, 2026 **Pennsylvania Bulletin** notice are attached as Exhibit G.

Actions Being Appealed

19. Appellants appeal the Department's response to the informal hearing. Notice was received via email to counsel with confirmation by first-class mail directly to Appellants. The Determination is attached as Exhibit H.
20. Appellants appeal each of the four amendments to PAC210079. On May 18, 2026, Appellant Andrew Dymski received the District's response to his Right-to-Know Law request, which disclosed the fourth amendment coverage and included the permit files for the other three amendments. The District response produced 92 documents, including Amendment 1 (NPDES Transfer), Amendment 2 (Minor Amendment- PPL Laydown), Amendment 3 (Major Amendment – Water Main Relocation), and Amendment 4 (Major Amendment Phase 1A/1B Pennsylvania Digital 1).
21. Appellants' June 16, 2026 request for an informal hearing was submitted within thirty days of May 18, 2026 and raised the lack of notice of all four amendments. The Department's July 16, 2026 Determination is the final determination on that request under

25 Pa. Code § 102.32(c), and this Appeal is taken from that Determination as to each of the four amendments.

22. This was the first time Appellants received notice of the address and scope of the hyperscale data center activities authorized by PAC210079. The notices published in the Pennsylvania Bulletin never disclosed the address of the project or its identity. Only the corporate address of the permittee was published, which under Board precedent is inadequate notice. *Prizm Asset Management Co. v. DEP*, 2005 EHB 819, 838, 841 (Krancer, C.J.) (revised NPDES application calling for drainage to a new watershed "has to be considered a substantial one. Being a substantial change, public notice was required"; the right to public notice "is distinct and separate from" an appellant's other interests).

NPDES Individual and General Permits

23. The regulatory provisions contained in Chapter 92a implement the NPDES Program by the Department under the Federal Clean Water Act.
24. Eligible dischargers, who wish to be covered by a general permit, such as PAG-02, shall file a complete notice of intent ("NOI") as instructed in the NOI. At a minimum, the NOI must identify each point source for which coverage under the general permit is requested; demonstrate that each point source meets the eligibility requirements for inclusion in the general permit; demonstrate that the discharge from the point sources, individually or cumulatively, will not cause or contribute to a violation of an applicable water quality standard established under Chapter 93 (relating to water quality standards). 25 Pa. Code § 92a.23.

25. Regulatory requirements for an individual NPDES permit are set forth in Section 92a.21 and include the requirement to submit a complete application at least 180 days before the date upon which the applicant desires to commence discharge of pollutants. Other requirements include written notice to the local municipality and county where the permitted activity is proposed to be located.
26. The application for an individual NPDES permit include a description of the activities conducted by the applicant that require an NPDES permit; name, **mailing address and location of the facility**; up to four standard industrial codes (SIC) or North American Industry Classification System (NAICS) code that best reflect the principal products or services provided by the facility; the operator's name, address, telephone number, ownership status and entity status; **a listing of all Department and EPA environmental quality permits for the facility**; a topographic or other map extending 1 mile beyond the boundaries of the facility or activity; and a brief description of the nature of the business.
- 25 Pa. Code § 92a.21(c) (5).
27. Section 92a.54 describes the circumstances when a general permit is appropriate. A general permit may be issued only for point sources that "[i]ndividually and cumulatively do not have the potential to cause or contribute to a violation of an applicable water quality standard established under Chapter 93 (relating to water quality standards) or cause significant adverse environmental impact." 25 Pa. Code § 92a.54(a)(7).
28. The regulations require the Department to deny coverage under a general permit when one or more of the conditions in Section 92a.54(e)(1)-(7) exist.

29. The Department may revoke or terminate coverage under a general permit, and require the point source discharger to apply for and obtain an individual permit for any of the above reasons.
30. Public notice of every complete application for an NPDES permit will be published in the *Pennsylvania Bulletin*. 25 Pa. Code § 92a.82(a).

District Approval of Coverage Under PAG-02

31. As outlined above, the project was initially known as Cumberland Knoll. On December 18, 2018, the District authorized coverage under PAG-02 and assigned permit number PAC210079 to Club Road Properties, LTD to discharge stormwater during construction of a residential development of 58 units on 15.3 acres. Public notice of the authorization was published in the February 9, 2019 edition of the **Pennsylvania Bulletin**. The published notice identified the permit number, the applicant's out-of-state mailing address, the municipality and county, and the receiving stream. It did not identify the project site by name, street address, parcel, acreage, limit of disturbance or discharge point. It does not state whether the action noticed is an original approval, a renewal, an amendment or transfer.
32. The District approved renewal of coverage under PAG-02 by letter dated September 5, 2023. However, the renewal of coverage had an expiration date of December 7, 2024. The reason for the term of coverage being less than five years was because PAG-02 was revised. However, a search of the **Pennsylvania Bulletin** did not disclose published notice of the renewal of PAC210079.
33. The permittee was required to record an instrument with the recorder of deeds which will ensure disclosure of the PCSM BMPs. The instrument was required to be recorded

within 45 days and provide proof of the recording at the time an application to transfer permit coverage is submitted. The permittee never recorded such an instrument!

34. PAG-02 was reissued in December 2024. The Department required existing permittees to submit a renewal NOI so the discharge would be covered by the revised PAG-02.
35. Permittees with existing coverage under PAG-02 are required to submit a renewal NOI to the District that originally approved PAG-02 coverage by December 7, 2024 (i.e., the expiration date of the 2019 General Permit) in accordance with 25 Pa. Code § 92a.54(c)(1). Permittees that submit renewal NOIs by December 7, 2024, are authorized to discharge immediately upon submission of the NOI. When permittees submit renewal NOIs they are agreeing to abide by the terms and conditions of the reissued PAG-02 General Permit. Final action on NOIs submitted for new coverage, renewal of coverage, and a major amendment to coverage will be published in the Pennsylvania Bulletin.
36. The renewal NOI in the permit file certifies a common plan of development. The form records "Common Plan of Development or Sale — No. phases: 10 — No. phases complete: 0," for a "Residential development of 58 total units on 15.3 acres," on a total site of 36.37 acres. The NOI for the third amendment certifies a common plan of six phases. The same permit carries two different certifications of the same common plan.
37. Coverage under the revised and reissued PAG-02 was published in the January 4, 2025 edition of the **Pennsylvania Bulletin** under PAC210079 to Club Road Properties, LP with an address of 4400 Deer Path Road, Suite 1, Harrisburg PA 17110. The published notice identified the permit number, the applicant's out-of-state mailing address, the municipality and county, and the receiving stream. It did not identify the project site by name, street address, parcel, acreage, limit of disturbance or discharge point. It does not

state whether the action noticed is an original approval, a renewal, an amendment or transfer.

38. The District performed a site inspection on February 5, 2025. Inspection report 25-01 identified significant violations. 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.

39. A follow up inspection was performed by the District March 31, 2025. Inspection report 25-02 identified continuing violations. 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.

40. Appellants have not identified any documentation from the District that those violations were corrected. Report 25-02 states on its face that "[t]his report serves as a Notice of

Violation (NOV)" and demanded a written response. No written response appears in the record produced to Appellants.

41. On August 7, 2025, the Department issued a Notice of Violation ("NOV") to Club Road Properties, LTD resulting from an inspection on July 9, 2025. A waterline was installed through wetland without a permit.

The Governor's Permit Fast Track Executive Order

42. On November 19, 2024, Governor Shapiro issued Executive Order 2024-04—PA Permit Fast Track Program. The Executive Order designated the Office of Transformation and Opportunity ("OTO") to lead the program. All Commonwealth agencies, including the District and Department, were required to cooperate with and provide assistance to OTO as needed.
43. OTO was required to issue program guidance. The PA Permit Fast Track Program Guidance identifies criteria to determine whether a project is designated as a Covered Project. The criteria to determine whether a project should participate in the Fast Track Program include the impact upon environmental justice concerns.
44. The guidelines require a Coordinated Project Plan, defined as a concise plan for coordinating public and agency participation created by OTO. The Coordinated Project Plan must include the Project Sponsor's plans and public engagement and outreach.
45. 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.

46. On April 30, 2025, OTO and the data center development agents met with the Department to discuss among other topics, **“Use of a phased permitting approach with base NPDES permit and subsequent amendments.”**

47. No Coordinated Project Plan for this project has been produced to Appellants. Appellants have received no notice of any plan for public engagement and outreach, and are aware of no public engagement or outreach concerning any of the four amendments. Whatever the Fast Track Program required OTO to prepare, the residents of Middlesex Township never saw it.

PAC210079 Is Transferred to New Property Owner- Amendment 1

48. Club Road Properties, LTD submitted an application to transfer coverage under PAC210079 to Carlisle Development Partners, LLC. The application was submitted July 9, 2025 and was updated and signed July 29, 2025.

49. Carlisle Development Partners, LLC in the transfer application disclosed the Site Name and Facility Name would be Project Bolt. The proposed transferee certified the quantity or quality of any discharge to surface waters would not change. There was no description of Project Bolt, notwithstanding that eight days earlier the applicant's own engineer had transmitted a draft "Project Bolt Masterplan" to officials of Middlesex Township.

50. The District 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." There is no evidence any documentation was recorded with the Recorder of Deeds.

51. Club Road Properties, LTD certified in the transfer application it was in compliance and there were no violations of any Department regulation, permit, order, or schedule of compliance at this or any other facility.

52. On July 9, 2025, the Department inspected the site in response to a complaint and found regulated work in a wetland and channel for which "[n]o permits were obtained for this activity." A Notice of Violation was issued August 7, 2025.

53. Before the District approved the transfer of the PAG-02 general NPDES permit, the proposed transferee disclosed in an email to the District that they anticipate submitting the PPL Laydown NPDES on approximately August 15, 2025.

54. On July 31, 2025, the Department wrote to the transferee's engineer that as the new owners "they purchased this violation," that "I understand through our conversation the NPDES permit is being transferred today," and that an after-the-fact permit application would be submitted "within 45 days (on around September 14, 2025)."

55. The District approved the transfer five days later. The general permit authorizes transfer of coverage only where the proposed permittee is in compliance with existing permits, regulations, orders and schedules of compliance, or "has demonstrated that any non-compliance with the existing permits has been resolved by an appropriate compliance action." The compliance action was six weeks in the future when the District approved the transfer.

56. On August 5, 2025, the District acknowledged transfer of PAC210079 from Club Road Properties, Ltd. to Carlisle Development Partners, LLC. The letter's entire statement of

the basis for the acknowledgment is: “Based on a review of the transfer application, the permit transfer is acknowledged.” Notice of the transfer as an amendment to PAC210079 was not published in the **Pennsylvania Bulletin**.

57. The acknowledgment of transfer was contrary to law and unsupported by the facts. The June 16, 2026 request presented this contention to the Department under 25 Pa. Code § 102.32(c) within thirty days of appellants’ actual notice of the action; the Department’s Determination declined to entertain it (“this letter addresses only that Amendment 4”); the Determination was for that further reason contrary to law.

PPL Laydown Area – Amendment 2

58. A change that increased post-construction impervious cover by approximately thirteen acres was processed as a minor amendment, without county or municipal notification and without a documented PCSM technical review.
59. The second amendment NOI, filed August 15, 2025, described “a secure ~5 acre stone laydown yard” said to be “included within the current Cumberland Knoll limits of disturbance,” while its earth-disturbance table reported post-construction impervious cover of 13.77 acres against pre-construction impervious cover of 0.57 acres.
60. The NOI checked the project type as residential and utilities, not commercial and industrial. Although the transfer amendment said the project site name was Project Bolt, the project site name in the NOI was Cumberland Knoll (PPL Laydown). The project description said residential development of 58 total units on 15.3 acres with public utilities and common open space. For the minor modification, the applicant is proposing to construct a secure approximate 5 acre stone laydown yard. This work is included,

according to the project description, within the current Cumberland Knoll limits of disturbance and stormwater runoff will be managed by the existing basin on site.

61. There was no mention of a data center, Project Bolt, PAX-1, or Pennsylvania Digital 1 anywhere in the NOI or the E&S plan set.
62. The same applicant, through the same engineer, using plan sheets sharing the same August 4, 2025 base date, described the identical ~5–10 acre laydown area two different ways within an eleven-day window.
63. Ten days after the NOI was signed, the applicant filed a preliminary land development application with Middlesex Township for "Project Bolt Phase 1A" in which the development type is checked "Other — Data Center."
64. A master sketch plan was submitted to the Township that described Project Bolt:

"PROJECT BOLT IS A 693-ACRE DATA CENTER DEVELOPMENT IN MIDDLESEX TOWNSHIP, CUMBERLAND COUNTY, PA, ALONG COUNTRY CLUB RD, BORDERED BY THE CONODOGUINET CREEK AND INTERSTATE 81. THE PROJECT IS COMPRISED OF THREE CAMPUSES, A PPL SUBSTATION, 3 CUSTOMER SUBSTATIONS, A CENTRAL WATER STORAGE/SEWER PROCESSING FACILITY, A NEW PROPOSED PUBLIC ACCESS ROAD 'PA DATA DRIVE' ..."
65. Submission of the NOI to the District without disclosing the data center at the same time as submission of the master sketch plan to the Township was misleading and makes the NOI materially incomplete and inaccurate.
66. On September 8, 2025, the District approved a Minor Amendment for a stone laydown yard described in the NOI as approximately 5 acres, whose earth-disturbance table reported post-construction impervious cover of 13.77 acres. The approval was not published in the **Pennsylvania Bulletin**.

67. No county or municipal notification was given, and no notice was published in the *Pennsylvania Bulletin*. The approval of the second amendment was contrary to law and unsupported by the facts. The June 16, 2026 request presented this contention to the Department under 25 Pa. Code § 102.32(c) within thirty days of appellants' actual notice of the action; the Department's Determination declined to entertain it ("this letter addresses only that Amendment 4"); the Determination was for that further reason contrary to law.

The Water Main Relocation – The Third Amendment

68. On October 20, 2025, the District received a NOI for a major amendment to PAC210079 identifying the project type as commercial, industrial and utilities, rather than residential as described in the second amendment. This time the project site name is Pennsylvania Digital 1 (Pax-1)- Water Main Relocation. No mention of Project Bolt. This is the first reference to Pax-1 in a permit application.
69. The third amendment enlarged the permit site from 36.37 acres to 693.44 acres and authorized 200 acres of earth disturbance, and introduced into the permit for the first time the project description "Pennsylvania Digital 1 is a 693-acre data center development."
70. The third amendment Module 2 reported "Area investigated for infiltration capabilities: 693.44 acres," a figure the District would establish five months later to be inconsistent with the Pre-Development Site Characterization spreadsheet's 157.55 acres of potentially suitable area.
71. The project description says Pennsylvania Digital 1 is a 693-acre data center development in Middlesex Township, Cumberland County, PA, along Country Club Road, bordered by the Conodoguinet Creek and 1-81. The project is comprised of three campuses, a PPL

substation, 3 customer substations, a central water and sewer facility, and a new private street with public access road "PA Data Drive" is proposed. This application is focused on the relocation of the water main.

72. On November 18, 2025, the District transmitted an incompleteness letter to the applicant.

The District determined that the NOI "is incomplete." The letter identified completeness deficiencies in the NOI, the E&S Plan and the PCSM plans, including that the NOI "was not completed in full," that the County Notification Form and the Municipal Notification Form "w[ere] not submitted," that "[a] valid PNDI receipt was not submitted," that "[a]ll applicable questions in Module 1 were not completed," that "[s]oil boundaries are not shown on the plan drawings," and that "DEP's PCSM Spreadsheet - Volume Worksheet or other stormwater analysis calculations were not submitted to quantify the pre- and post-construction runoff volumes and pollutant loads up to the 2-year/24-hour storm. (25 Pa. Code § 102.8(g)(2))."

73. On November 21, 2025, the applicant's civil engineers transmitted letters to Cumberland

County and Middlesex Township, purporting to provide notice of planned land development for Chapter 102 permits. The letters did not identify what permit application was submitted to the Department, making it difficult to evaluate whether the unidentified project is consistent with county comprehensive plan and local zoning.

Neither letter identifies the relocation of the water main, the basis for the NOI. The subject line identifies NPDES Major Modification – Phase 1A/1B, Chapter 105 – GP-7 Minor Road Crossing.

74. The applicant's civil engineers responded December 5, 2025 to the November 18, 2025 incompleteness letter.

75. The District provided additional comments on incompleteness via email December 10, 2025 including proof of receipt of updated county and municipal notification forms. The applicant's civil engineers responded December 12, 2025 and said the notification letters were re-sent.
76. On December 23, 2025, the District informed the applicant the NOI was determined to be complete. The copy of the NOI received through a right to know request indicates the NOI was resubmitted December 18, 2025, was determined to be complete December 19, 2025 and the amended PAC210079 was issued December 30, 2025.
77. The District's December 23, 2025 completeness letter told the applicant: "the NOI is complete. The District will now proceed with the technical review of the NOI. During the technical review, the adequacy of the application and its components will be evaluated to determine if sufficient information exists to render a decision on the technical merits of your NOI." The District approved the third amendment seven calendar days later. There is no technical deficiency letter for the third amendment anywhere in the permit record produced to Appellants. For the fourth amendment the District issued eighty-two technical deficiencies.
78. The third amendment enlarged the permitted site from 36.37 acres to 693.44 acres and enlarged the authorized earth disturbance to 200 acres. That is a nineteen-fold expansion of the permit boundary, approved on an amendment captioned "Water Main Relocation."
79. 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, the District's site inspection on February 11, 2026 stated "earth disturbance commenced January 6, 2026." At that time, the District observed "inspection

of the PPL Laydown Area and stone stockpile to the west of the laydown area." The observations were the following: 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.

80. On April 8, 2026, the District performed another inspection and stated "earth disturbance commenced March 16, 2026." That is the third date provided for commencement of earth disturbance for the water main relocation project under the third amendment of the PAG-02 general permit.
81. On December 30, 2025, the District approved a Major Amendment, styled "Water Main Relocation," seven calendar days after determining the application complete and stating that "[t]he District will now proceed with the technical review of the NOI" . Amendment 3 enlarged the permit site from 36.37 acres to 693.44 acres, enlarged the authorized earth disturbance to 200 acres, and introduced into the permit record for the first time the description "Pennsylvania Digital 1 is a 693-acre data center development."
82. Notice of issuance of PAG-02 permit number PAC210079A-3 issued to Carlisle Development Partners, LLC, 1660 International Drive Ste 500, McLean, VA 22102 was published in the January 31, 2026 edition of **Pennsylvania Bulletin**. The published notice identified the permit number, the applicant's out-of-state mailing address, the municipality and county, and the receiving stream. It did not identify the project site by name, street address, parcel, acreage, limit of disturbance or discharge point. It does not state whether the action noticed is an original approval, a renewal, an amendment or transfer.

83. The approval of the third amendment was contrary to law and unsupported by the facts.

The June 16, 2026 request presented this contention to the Department under 25 Pa. Code § 102.32(c) within thirty days of appellants' actual notice of the action; the Department's Determination declined to entertain it ("this letter addresses only that Amendment 4"); the Determination was for that further reason contrary to law.

PHASE 1A PPL SUBSTATION AND PHASE 1B CAMPUS 1 CONSTRUCTION AND STORMWATER – The Fourth Amendment

84. On November 26, 2025, the NOI for the fourth amendment was submitted while the NOI for the third amendment to PAG-02 had yet to be considered complete. The fourth amendment application was focused on phase 1A (PPL Substation) and phase 1B (Campus 1).

85. On December 12, 2025, the District transmitted an incompleteness letter to Carlisle Development Partners, LLC. The letter included a list of the thirty (30) completeness deficiencies! The applicant's civil engineer consultant provided responses to the 30 completeness deficiencies by letter dated January 7, 2026.

86. On January 20, 2026, the District emailed follow up questions on six of the responses to the 30 completeness deficiencies. The Applicant's civil engineer responded by letter dated January 26, 2026.

87. On January 7, 2026, the NOI was resubmitted. It was determined to be complete February 3, 2026.

88. On March 30, 2026, the District transmitted a technical deficiency letter to Carlisle Development Partners, LLC. The District identified 82 technical deficiencies not including subparts. Forty-nine of the technical deficiencies pertained to the E&S Plan and the remaining technical deficiencies pertained to the PCSM Plan. The letter advised that

if the response does not satisfy the technical deficiencies, in general the NOI will proceed to elevated review.

89. The applicant's civil engineer consultant responded to the technical deficiencies on April 6, 2026.

90. The District determined the NOI still contained technical deficiencies and pursuant to the Department's Permit Review Process and Permit Decision Guarantee Policy, the NOI entered the Elevated Review process. The May 1, 2026 Notification of Elevated Review Letter contained 21 remaining technical deficiencies and three additional deficiencies.

91. Coverage under the PAG-02 was therefore available only on a demonstration that the discharges "will be managed with a non-discharge alternative or ABACT BMPs," that is, that the BMPs will manage the net change in stormwater volume, rate and quality for storms up to and including the 2-year/24-hour storm.

92. No such demonstration was before the reviewing agency when coverage issued.

Seventeen days before issuance, in its Notification of Elevated Review dated May 1, 2026, the District wrote, in its own letter and under its own regulatory citations, that the applicant had failed to:

(a) "Provide documentation that demonstrates storms greater than the 2-year/24-hour storm will bypass the MRC cells in the flow splitter. Additionally, flow splitter FS-R1 could not be located on PCSM Drawings."

(b) supply documentation for the water-quality storm: "Documentation for the 1.2 inch/2-hour storm could not be located"

(c) reconcile the 2-year outflow figures for MRC Basins A1, C1, R2 and V5, as to which "[i]nconsistencies have not been adequately addressed" and

(d) reconcile the impervious-area accounting on which the volume computations depend.

93. On May 5, 2026, the applicant's civil engineer consultant responded to the May 1, 2026 notification of elevated review. Coverage nevertheless issued on May 18, 2026, thirteen

days after the applicant's May 5, 2026 response, with no document in the permit record produced to appellants evidencing a determination that these items were resolved.

94. Another technical deficiency in the NOI for the fourth amendment was identification of construction techniques or special considerations to address soil and geologic limitations. 25 Pa. Code § 102.8(g) provides that, with stated exceptions, "PCSM Plans for proposed activities requiring a permit under this chapter require the following additional information: ... (5) Identification of construction techniques or special considerations to address soil and geologic limitations."
95. On March 30, 2026, the District identified a soil and geologic limitation and cited it to § 102.8(g)(5): "It appears from the test pit information that several SCM bottoms will be in areas where limiting zones were identified. Provide instructions for special construction techniques that ensure the recommended two feet of separation from limiting zones is provided."
96. On May 1, 2026, the District rejected the applicant's first answer and directed: "Clarify why the recommendation of the geotechnical engineer to evaluate proper offset distances from bedrock limiting zones was not provided on the plans. Additionally, provide rock removal instructions and backfill material details for areas where limiting zones are within the recommended 2-foot separation zone."
97. On May 5, 2026, the applicant answered that "[d]esign notes from the infiltration report have been incorporated into Sheet SWM 43 and called 'Stormwater Management Facilities — Design Notes', outlining the procedure for evaluating infiltration rates during construction. Rock blasting is currently proposed and is expected to continue throughout construction. ... Stages 30 and 35 indicate that the MRC and infiltration

basins will be over-excavated 2 feet and then backfilled with 2 feet of amended soil to maintain the required 2-foot separation.”

98. The May 5, 2026 response also directed the District to the “Structural Fill Materials” note on Sheet SWM 41 “wherever a facility is constructed in fill.”

99. The geotechnical engineer’s evaluation of proper offset distances from bedrock limiting zones — the item the May 1, 2026 letter said “was not provided on the plans” — was still not provided on the plans. Also, achievement of the design infiltration rates was deferred to measurements not yet taken, during construction. A generic structural-fill note applicable “wherever a facility is constructed in fill” is not the identification § 102.8(g)(5) requires of construction techniques or special considerations for the specific areas where limiting zones sit within the recommended 2-foot separation zone. Coverage issued thirteen days later.

100. The applicant’s own geotechnical consultants had recorded the underlying limitations. ECS Mid-Atlantic, LLC, *Overburden Layer Infiltration Basin Suitability Memorandum*, November 14, 2025, reported that infiltration testing of the overburden layer was performed at 154 of the 220 geotechnical test pits with a median rate of 0.09 inch/hour; that “testing results at 96 of the 154 test locations (i.e., 62.3%) were less than 0.2 inch/hour”; that “[s]oils with an infiltration capacity of less than 0.2 inch/hour are generally considered to be unsuitable for standard infiltration basin design” (p. 2); that the site’s characteristics “present several sitewide limitations that appear to make a conventional infiltration basin unsuitable” (pp. 2-3); and that the overburden is “underlain primarily by competent shale bedrock, with limestone underlying smaller regions of the site” (p. 1).

101. The applicant told the District in writing on October 20, 2025 that “[s]ince most all of our basins are in deep cut or on fill, we do not meet the separation distances to limiting zones ...”, and on November 3, 2025 that “the flood testing failed on the 2 tests which passed the first flood. Given the overall poor results across the site as well as these recent failed tests, we are proceeding with redesign of 6 of 9 basins to include multiple MRC cells”.
102. The acknowledgment of coverage issued without the identification § 102.8(g)(5) requires and was contrary to law, and the Determination declining to disturb it was likewise contrary to law.
103. Appellants also assert the PCSM plan does not contain the volume, water-quality and peak-rate analysis required by 25 Pa. Code §§ 102.8(g)(2) and (g)(3). 25 Pa. Code § 102.8(g)(2) requires an “[a]nalysis demonstrating that the PCSM BMPs will meet the volume reduction and water quality requirements specified in an applicable Department approved and current Act 167 stormwater management watershed plan; or manage the net change for storms up to and including the 2-year/24-hour storm event when compared to preconstruction runoff volume and water quality.”
104. 25 Pa. Code § 102.8(g)(3) requires an “[a]nalysis demonstrating that the PCSM BMPs will meet the rate requirements specified in an applicable Department approved and current Act 167 stormwater management watershed plan; or manage the net change in peak rate for the 2-, 10-, 50-, and 100-year/24-hour storm events in a manner not to exceed preconstruction rates,” and provides that “[h]ydrologic computations or a routing analysis are required to demonstrate that this requirement has been met.”

105. As of May 1, 2026, the District had on its own record: that documentation for the 2-inch/2-hour water-quality storm “could not be located”; that the MRC Spreadsheet for SCM 5 and the PCSM spreadsheet disagreed as to the presence of HSG C soils; that the Volume Management spreadsheets showed 13.48 acres of commercial impervious to Basins A1/A3 while the General Information tab showed 13.76 acres of newly detained impervious; that for Phase 1A POA V the General Information tab showed 17.1 acres of impervious while the Phase 1B narrative showed 12.19 acres; and that documentation demonstrating that storms greater than the 2-year/24-hour storm would bypass the MRC cells in the flow splitter had not been provided.

106. As to peak rate, the District’s March 30, 2026 technical deficiency letter directed the applicant, citing § 102.8(g)(3), to verify that peak-rate values reported in the Stormwater Analysis — Peak Rate sections were consistent with the peak-rate information in the PCSM spreadsheets, routings and peak-flow summary tables for Points of Analysis A, C, D, K and R, and to “[r]evis[e] as necessary”, and recorded that “[t]he Stormwater Analysis — The Peak Rate section for POA V could not be located” (item 53); that “[t]he PCSM spreadsheet for POA T could not be located” (item 59); and that “POA V could not be located on the plans” (item 61). The District’s May 1, 2026 letter recorded that inconsistencies remained, including “in the PCSM Narrative on Page PG-9, the 2-yr ‘Post DA to POA B’ and the 25-yr, 50-yr, and 100-yr ‘Post Undetained POA V’”.

107. The record produced to appellants contains no determination that any of these items were resolved before coverage issued on May 18, 2026.

108. The District's March 30, 2026 letter recorded, at item 54: "The Other Information section on Page 10 shows there are several wetlands that experience significant changes to the surface discharges from pre to post construction. Additionally, the PCSM Narratives point out that all wetlands, except wetland Y and W, are 'primarily surface runoff fed'. Clarify how these changes pose no impacts to the existing wetlands on the site." Item 56 directed the applicant to "clarify the areas depicted on the plan drawings that show the 50' riparian buffer that is delineated around the existing wetlands but within the Limit of Disturbance line."
109. The permit as issued authorizes discharge to "UNT to Conodoguinet Creek (WWF, MF) via wetlands", and the Fact Sheet identifies ten named wetlands and five named channels as receiving waters. The record produced to appellants contains no determination that the clarification directed by item 54 was supplied or was adequate. The water-quality demonstration § 102.8(g)(2) requires was accordingly incomplete as to these receiving waters.
110. On May 18, 2026, the District approved the fourth amendment to PAC210079. However, the named recipient of the amended PAG-02 general permit is Mr. Petri Ottavainen.
111. Amendment 4 authorizes earth disturbance on a project site of approximately 693 acres, with 300 acres of earth disturbance (200 acres previously permitted and 100 acres of new earth disturbance authorized by Amendment 4) and post-construction impervious cover within the earth-disturbance area rising from 5.60 acres to 98.12 acres. The permit authorizes discharge "to UNT to Conodoguinet Creek (WWF, MF), UNT to Conodoguinet Creek (WWF, MF) via wetlands".

112. The fourth amendment NOI identifies approximately twenty discharge points to Channels 01, 04, 05, 06 and 07 and Wetlands M, N, O, P, S, T, U, W, Y and Z, of which at least ten report a distance to waters of 0 feet (PAX1-00282, pp. 6-8). The Phase 1B (Campus 1) grading area is described in the approved PCSM narrative as “bordering the Conodoguinet Creek, approximately 4,600 feet west of the intersection with Bernheisel Bridge Road” The stormwater design for the site depends on infiltration to groundwater and on managed-release stormwater control measures constructed over blasted rock and fill.
113. The acknowledgment of coverage under the fourth amendment was therefore contrary to law, unreasonable and unsupported by the facts, and the Determination declining to disturb it was likewise contrary to law.

The Informal Hearing Request

114. On June 16, 2026, Appellants’ counsel submitted a request for informal hearing regarding the PAX-1 Data Center Project—NPDES PAG-02 General Permit PAC210079. The letter request identified the four requesters (now Appellants), and stated “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.”
115. The letter detailed the issues associated with the use of the general permit and complete absence of public notice and comment. No agency ever determined this project

was eligible for a general permit at all. Those details are set forth hereinabove in this Notice of Appeal.

116. On June 22, 2026, the Department acknowledged receipt of the June 16, 2026 letter request and scheduled the informal hearing for July 1, 2026. The Department's letter summarized the issues presented by the requesters, including that the amendments to PAC210079, including the transfer from a residential project to a 693-acre hyperscale data center, violated the Environmental Rights Amendment and due process rights to adequate notice and opportunity to comment.

117. At the informal hearing, requesters made a presentation of the issues in their June 16, 2026 request, representatives of Carlisle Development Partners, LLC responded to requesters, and the Department and District staff and counsel caucused outside the hearing room. Neither the Department nor the District had any response to the presentation (other than asking for a copy of their FAQ document on Chapter 102 permits).

118. On July 16, 2026, the Department transmitted a response letter. The Department stated it would only address the fourth amendment, which was erroneously issued May 18, 2026 to Petri Ottavainen. The Department said the fourth amendment was issued to the wrong permittee, a clerical error.

119. The Department failed to address the issues raised regarding the transfer of the general permit when the permittee was in violation of Department regulations and when the transfer conditions had not been performed. The Department failed to address the amendment of the general permit for the PPL laydown area without disclosing it was part of the data center where the application was misleading.

120. The Department failed to address the water main relocation amendment without requiring public notice and opportunity to comment, where the Act 14 notice was misleading. An individual NPDES should have been required.
121. The Department's response failed to mention the Environmental Rights Amendment.
122. The June 16, 2026 request presented forty-four distinct contentions. The Determination answered two of them on the merits, deflected one, expressly excluded nine under its statement that the letter "addresses only that Amendment 4," swept twelve into a single conclusory sentence, and never mentioned twenty in any form.
123. The Department did not announce that limitation when it accepted the request. Its June 22, 2026 letter recites the contentions by name — that Appellants are aggrieved by the approval of the transfer of the general permit, that the second amendment for the PPL laydown area should have required an individual NPDES permit, that the third amendment for the water main relocation should have been denied as a result of ongoing violations, and that the amendments violate the Environmental Rights Amendment and due process rights to adequate notice and opportunity to comment. That letter announces no limitation of any kind. The limitation first appears in the Department's own hearing agenda circulated June 30, 2026. It became a holding on July 16, 2026, the thirtieth day.
124. 25 Pa. Code § 102.32(c) provides that "[t]he Department will schedule the informal hearing and make a final determination within 30 days of the request." The unit the regulation names is the request. The regulation provides no mechanism for severing the contentions in a request and answering some of them. To the extent the Department contends that no right under § 102.32(c) was ever perfected as to the first three

amendments, no notice of those actions was ever given to Appellants, and a period that never began cannot have run.

125. The Department asserted its Chapter 92a regulations do not specify a time frame for publishing an acknowledgement of coverage under NPDES General Permit in the **Pennsylvania Bulletin**.

126. Appellants have been prejudiced by the lack of public notice of the amendments to the original general permit as construction of the massive 693-acre data center has commenced.

The District Failed to Perform Compliance Analysis

127. The PAG-02 General Permit provides that coverage will be denied for “[s]tormwater discharges for which the applicant has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, and schedule of compliance or order issued by the [District]. (25 Pa. Code § 92a.54(e)(3)).”

128. Nothing in the permit record produced to appellants shows that the District performed that analysis before acknowledging coverage for Amendment 4, against a record that includes: two Chapter 102 inspection reports documenting violations at this permit in 2025, the second stating on its face “This report serves as a Notice of Violation (NOV)”, with no written reply and no closure record in the produced record; and the Department’s Notice of Violation dated August 7, 2025 for an unpermitted waterline installed through Wetland C/Channel 1. The District’s own inspection of April 8, 2026, forty days before coverage issued, on a 200-acre bulk-earthwork site with “Active drilling and blasting,” observed “Stream crossing area not protected with temporary E&S

BMPs,” found “No violations observed at this time” as to Chapter 102, and directed the permittee, under the heading “Compliance Assistance Recommendations,” to “Ensure temporary E&S BMPs are installed at all stream crossing areas to protect from sedimentation” and to “Ensure the steps of the Construction Sequence are followed in sequential order”.

129. The Determination states that "PADEP has not identified that outstanding violations existed at the time of Amendment 4." The Determination states that there is "no evidence of a pattern of violations." The regulation does not use that phrase. The provision quoted at paragraph 127 above permits denial where the applicant "has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, schedule of compliance or order issued by the Department." The Department added a word the regulation does not contain, and the word it added did the work.

130. No document in the permit record produced to Appellants, and no document in the Department's own file for this permit, records a compliance analysis performed at any of the four amendments.

Absence of Public Notice and Comment

131. As a direct result of the Department and District's failure to provide adequate public notice, Appellants, other affected citizens, the affected municipality, downstream landowners and riparian property owners, and other interested members of the public were denied the opportunity to review and comment on the four amendments and the associated transfer, to identify regulatory deficiencies, to present evidence of

environmental impacts, and to request a public hearing on the District and Department's proposed action.

132. The right of public participation in the NPDES permitting process is a substantive right guaranteed by federal and Pennsylvania law. The Department's failure to provide required public notice is not a technical or harmless procedural deficiency; it deprived Appellants and the public of substantive rights and rendered the four amendments procedurally invalid.

General Permit Eligibility

133. No agency at any point determined that this project was eligible for coverage under a general permit at all. On July 9, 2025, one month before the transfer, the District wrote to the Department that "[t]here will be 4+ amendments throughout the project" and that tracking them would be "extremely difficult and confusing." On November 4, 2025, the Department found in a signed deficiency letter that the work is "part of a large, phased project that will require additional Chapter 105 permitting and an evaluation of Cumulative Impacts." The United States Army Corps of Engineers wrote to the Department on February 25, 2026 that it had "withdrawn" the project "due to it not being a single and complete project," that "[t]his project is part of a larger development of data centers," and asked "[h]ow is the Department viewing this authorization since it looks like you've acknowledged this project?" The Corps put the question to the Department again on March 3, 2026. Against all of that, there is no document in any record produced to Appellants in which the Department or the District determined that these discharges were not more appropriately controlled under an individual permit, as 25 Pa. Code § 92a.54(e)(1) requires.

Violation of the Environmental Rights Amendment

134. Article I, Section 27 of the Pennsylvania Constitution provides: "The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and

esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

135. “[W]hen reviewing challenges to the constitutionality of Commonwealth actions under Section 27, the proper standard of judicial review lies in the text of Article I, Section 27 itself as well as the underlying principles of Pennsylvania trust law in effect at the time of its enactment.” *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 161 A.3d 911, 930 (Pa. 2017).

136. “Clause one of Section 27 requires each branch of government to consider in advance of proceeding the environmental effect of any proposed action on the constitutionally protected features. The failure to obtain information regarding environmental effects does not excuse the constitutional obligation because the obligation exists a priori to any statute purporting to create a cause of action.” *Robinson Township v. Commonwealth*, 83 A.3d 901, 952 (Pa. 2013) (plurality), as adopted in *PEDF*, 161 A.3d at 930-32.

137. As trustee, the Commonwealth “has a duty to act toward the corpus of the trust — the public natural resources — with prudence, loyalty, and impartiality.” *Robinson Township*, 83 A.3d at 956-57, quoted in *PEDF*, 161 A.3d at 932. That duty binds the Department and the conservation district acting under its delegated authority.

138. The Board has applied that framework to a Department permitting decision. "At a minimum, a Department permitting action that is not lawful under the statutes and regulations in place to protect the waters of the Commonwealth, cannot be said to meet the Department's trustee responsibility under Article I, Section 27 and is clearly a state action taken contrary to the rights of citizens to pure water." *Center for Coalfield Justice v. DEP*, 2017 EHB 799, 857. The Board asks whether the Department "considered the environmental effects of its permitting action" before it acted. *Id.* at 859.

139. By acknowledging coverage for 300 acres of earth disturbance and 98.12 acres of post-construction impervious cover discharging to wetlands and tributaries of the Conodoguinet Creek without obtaining the volume, rate and water-quality demonstrations described herein, the Department and the District failed to consider in advance of proceeding the environmental effect of the action, and failed in the trustee duties Section 27 imposes. The acknowledgment of coverage and the Determination declining to disturb it were both contrary to law.

140. The District's approval of the four amendments and the Department's Determination upholding coverage PAC210079A-4 violate the ERA in multiple respects:

(a) The Department approved the fourth Amendment and the associated transfer without conducting any analysis of the ERA implications of the permit action, including any assessment of whether the amended coverage would impair the quality of Conodoguinet Creek or the surrounding watershed in violation of the Commonwealth's trustee obligations.

(b) The District and Department upheld continued coverage under the fourth amendment and thereby authorized continued stormwater discharges from a site with a documented pattern of non-compliance — without evaluating whether such

continued authorization constitutes an unreasonable degradation of the receiving waterbody inconsistent with the Commonwealth's obligations as trustee.

(c) The Department failed to act as a prudent trustee: a prudent trustee would not approve or maintain permit coverage that facilitates ongoing, documented degradation of trust resources (the receiving waters and watershed) in the face of a pattern of permittee non-compliance and without conducting an independent ERA analysis as required by *PEDF*.

(d) The Department's failure to require individual NPDES permit review for this site — where site-specific conditions render the standardized general permit conditions inadequate to protect water quality — further reflects a failure to act as a prudent and constitutionally-obligated trustee of Pennsylvania's water resources.

139. The July 16, 2026 Determination contains no analysis of the ERA, no acknowledgment of the Commonwealth's trustee obligations under *PEDF*, and no evaluation of the ERA implications of continued authorization of stormwater discharges from this site. This omission is not a mere procedural deficiency; it is a constitutional violation and an independent, standalone basis for reversal of the Determination.

Conclusion

The Department's July 16, 2026 Determination failed to address numerous issues raised in Appellants informal hearing request. The failure is arbitrary, capricious, an abuse of discretion, contrary to law and is unreasonable.

The District's approval of coverage under PAC210079 amendment 1 was arbitrary, capricious, an abuse of discretion, contrary to law and is unreasonable. The amendment is void ab initio.

The District's approval of coverage under PAC210079 amendment 2 is arbitrary, capricious, an abuse of discretion, contrary to law and is unreasonable. The amendment is void ab initio.

The District's approval of coverage under PAC210079 amendment 3 is arbitrary, capricious, an abuse of discretion, contrary to law and is unreasonable. The amendment is void ab initio.

The District's approval of coverage under PAC210079 amendment 4 is arbitrary, capricious, an abuse of discretion, contrary to law and is unreasonable. The amendment is void ab initio.

WHEREFORE, Appellants respectfully request that the Board:

(a) Sustain this appeal;

(b) vacate the Department's July 16, 2026 Determination and remand to the Department with direction to make the determination 25 Pa. Code § 102.32(c) requires, on a record that addresses the objections stated above, including the § 102.32(c) determination on the contentions the June 16, 2026 request presented as to Amendments 1, 2 and 3, which the Determination declined to entertain, and with direction that the acknowledgment of coverage for Amendment 4 be suspended pending that determination;

(c) Vacate or revoke the District's acknowledgment of coverage under NPDES General Permit PAG-02 for Amendment 4, Permit No. PAC210079 A-4, as corrected July 8, 2026;

(d) In the alternative, remand the acknowledgment of coverage to the Department and the District with instructions to require, before any further earth disturbance is authorized, the demonstrations required by 25 Pa. Code § 102.8(f) and (g) and by the eligibility conditions of the PAG-02 General Permit, including a demonstration that the discharges

will be managed with a non-discharge alternative or with ABACT best management practices;

(e) In the alternative, direct that the Department require an individual NPDES permit for the discharges associated with the common plan of development of which Amendment 4 is a part, before further earth disturbance proceeds;

(f) Direct that notice of the acknowledgment of coverage be re-published in a form that adequately identifies the site and the action — the street address or parcel, the project name, the acreage and limit of disturbance, the discharge points and receiving waters, and the nature of the action taken — that a public comment period of not less than thirty days follow that publication, and that the Department consider the comments received in deciding whether to suspend or revoke the coverage or to require additional information;

(g) Award such other relief as the Board deems appropriate, including costs and attorneys' fees available under applicable law.

Appellants reserve the right to amend this Notice of Appeal in accordance with the Rules of Practice and Procedure of this Board and upon information obtained during discovery.

Respectfully submitted,



William J. Cluck
Pa Attorney Id No. 52892
Law Office of William J Cluck
587 Showers Street
Harrisburg, Pa 17104
717-238-3027
717-238-8033 (fax)
e-mail: billcluck@billcluck.com

Date: August 13, 2026

EXHIBIT A

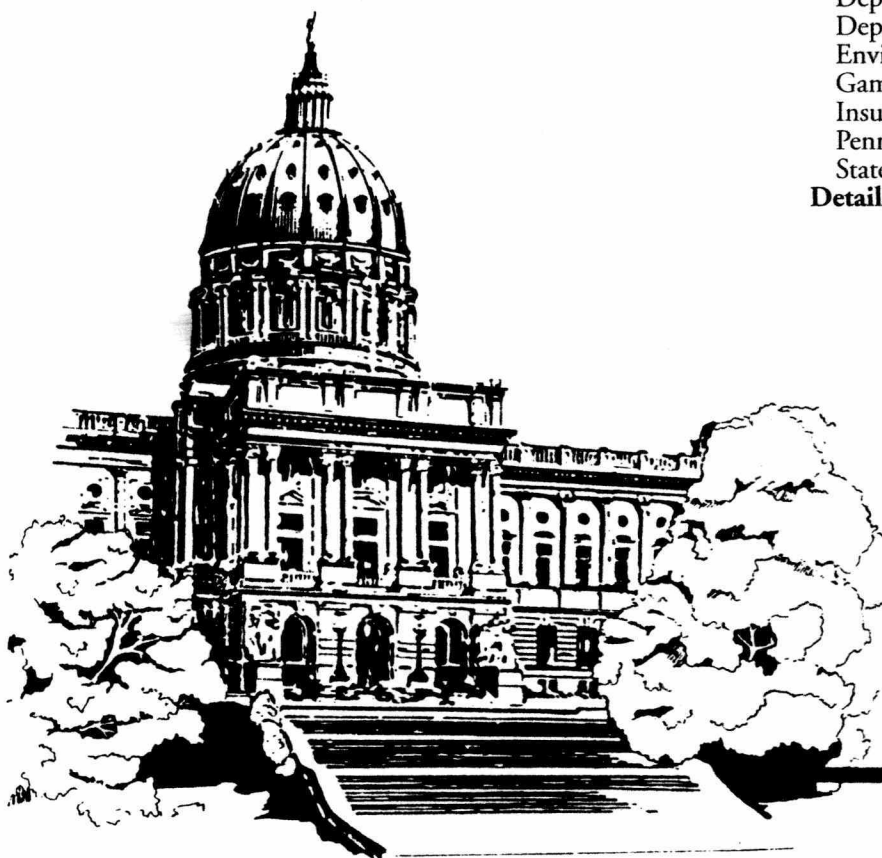
PENNSYLVANIA BULLETIN

Volume 49
Saturday, February 9, 2019 • Harrisburg, PA
Number 6
Pages 587—696

Agencies in this issue

The Governor
The General Assembly
The Courts
Department of Banking and Securities
Department of Environmental Protection
Department of Health
Department of Human Services
Department of State
Environmental Quality Board
Game Commission
Insurance Department
Pennsylvania Public Utility Commission
State Board of Pharmacy

Detailed list of contents appears inside.



<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Allen Township Monroe Township Mechanicsburg Borough Cumberland County Issued	PAC210118	Tamanini Realty 832 Tamanini Way Mechanicsburg, PA 17055	Trindle Spring Run (CWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
Middlesex Township Cumberland County Issued	PAC210079	Club Road Properties Limited 4400 Deer Path Road Harrisburg, PA 17110	Conodoguinet Creek (WWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
West Pennsboro Township Cumberland County Issued	PAC210097	FOB Properties, LLC Plainfield 670 Longs Gap Road Carlisle, PA 17013	Alexander Spring Creek (CWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
Derry Township Dauphin County Issued	PAC220052	Penn State Hershey Medical Center 139J Physical Plant Building University Park, PA 16802	UNT Swatara Creek (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Derry Township Dauphin County Issued	PAC220063	Musser Home Builders, Inc. 395 Gettysburg Street Dillsburg, PA 17019	Swatara Creek (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Conewago Township Dauphin County Issued	PAC220150	Hershey RV Park & Lodging P.O. Box 544 Glenmore, PA 19343	Gallagher Run (TSF, MF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Londonderry Township Dauphin County Issued	PAC220117	Middletown DPP, LLC 9010 Overlook Boulevard Brentwood, TN 37027	Lynch Run (TSF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Lower Paxton Township Dauphin County Issued	PAC220034	Cider Press Associates, LLC 4712 Smith Street Harrisburg, PA 17109	Beaver Creek (WWF, MF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Susquehanna Township Dauphin County Issued	PAC220101	The McNaughton Company 4400 Deer Path Road Suite 201 Harrisburg, PA 17110	Paxton Creek (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100

PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES

NPDES PERMIT NO: PAC210079

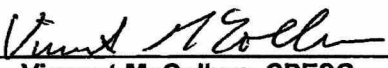
In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*, the Department of Environmental Protection (DEP) authorizes the permittee named below to discharge stormwater associated with small construction activities from an earth disturbance activity that involves earth disturbance greater than or equal to one acre, or an earth disturbance on any portion, part, or during any stage of a larger common plan of development or sale that involves earth disturbance greater than or equal to one acre:

<u>Permittee</u>	<u>Project Site</u>
Club Road Properties Limited 4400 Deer Path Road Harrisburg, PA 17110	Cumberland Knoll Phase 1 Middlesex Township, Cumberland County

This authorization is subject to DEP's enclosed PAG-02 General Permit which incorporates all effluent limitations, monitoring and reporting requirements, and other terms, conditions, criteria, and special requirements for the discharge of stormwater composed entirely of stormwater associated, in whole or in part, with construction activity, as defined in this General Permit, to surface waters of this Commonwealth, including through municipal separate storm sewers and non-municipal separate storm sewers. Authorization to discharge is subject to the implementation of the plans and additional associated information submitted as part of the Notice of Intent (NOI).

APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN IS AUTHORIZED BEGINNING ON December 17, 2018, AND WILL EXPIRE ON December 16, 2023 WHEN CONDUCTED PURSUANT TO THE TERMS AND CONDITIONS OF THE APPLICABLE PERMIT. COVERAGE MAY BE EXTENDED BY DEP OR AUTHORIZED CONSERVATION DISTRICT IF A TIMELY, ADMINISTRATIVELY COMPLETE AND ACCEPTABLE RENEWAL NOI IS SUBMITTED TO DEP OR AUTHORIZED CONSERVATION DISTRICT AT LEAST 180 DAYS PRIOR TO DATE OF COVERAGE EXPIRATION. THE PERMIT MAY BE TERMINATED PRIOR TO THE EXPIRATION DATE UPON RECEIPT AND ACKNOWLEDGEMENT OF A NOTICE OF TERMINATION FORM AND APPROVAL BY DEP OR AUTHORIZED CONSERVATION DISTRICT. NO CONDITION OF THIS PERMIT SHALL RELEASE THE PERMITTEE OR CO-PERMITTEE FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER PENNSYLVANIA, OR FEDERAL ENVIRONMENTAL STATUTES, REGULATIONS, OR LOCAL ORDINANCES.

Coverage under the PAG-02 General Permit is authorized by:



Vincent McCollum, CPESC
Assistant District Manager
Cumberland County Conservation District

EXHIBIT B



PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES

NPDES PERMIT NO: PAC210079

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251—1387 and Pennsylvania's Clean Streams Law, as amended, 35 P.S. §§ 691.1—691.1001, the Department of Environmental Protection (DEP) authorizes the permittee named below to discharge stormwater associated with construction activities from an earth disturbance activity that involves earth disturbance greater than or equal to one acre, or an earth disturbance on any portion, part, or during any stage of a larger common plan of development or sale that involves earth disturbance greater than or equal to one acre:

Permittee

Club Road Properties, LTD
4400 Deer Path Road
Harrisburg, PA 17110

Project Site

Cumberland Knoll - Phase 1
County Club Road
Carlisle, PA 17013
Middlesex Township, Cumberland County

This authorization is subject to DEP's enclosed PAG-02 General Permit (General Permit) which incorporates all effluent limitations, monitoring and reporting requirements, and other terms, conditions, criteria, and special requirements for the discharge of stormwater associated with construction activities to surface waters, including through storm sewers. Authorization to discharge is subject to the implementation of the plans and additional associated information submitted as part of the Notice of Intent (NOI) for general permit coverage.

APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN IS AUTHORIZED BEGINNING ON SEPTEMBER 5, 2023, AND WILL EXPIRE ON DECEMBER 7, 2024 WHEN CONDUCTED PURSUANT TO THE TERMS AND CONDITIONS OF THIS GENERAL PERMIT. GENERAL PERMIT COVERAGE MAY BE TERMINATED PRIOR TO THE EXPIRATION DATE UPON RECEIPT AND ACKNOWLEDGEMENT OF A NOTICE OF TERMINATION FORM AND APPROVAL BY DEP OR THE AUTHORIZED CONSERVATION DISTRICT. NO CONDITION OF THIS GENERAL PERMIT SHALL RELEASE THE PERMITTEE OR CO-PERMITTEE(S) FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER STATE OR FEDERAL ENVIRONMENTAL STATUTES, REGULATIONS, OR LOCAL ORDINANCES.

Coverage under the PAG-02 General Permit is authorized by:

Vince McCollum
Assistant District Manager
Cumberland County Conservation District

EXHIBIT C

PENNSYLVANIA BULLETIN

Volume 55
Saturday, January 4, 2025 • Harrisburg, PA
Number 1
Pages 1—230

See Part II page 185
for the Subject Index for
January—December 2024

Part I

Agencies in this issue

The Courts
Department of Agriculture
Department of Banking and Securities
Department of Environmental Protection
Department of Health
Department of Military and Veterans Affairs
Department of Revenue
Department of Transportation
Executive Board
Fish and Boat Commission
Health Care Cost Containment Council
Insurance Department
Pennsylvania Public Utility Commission
Philadelphia Parking Authority
Detailed list of contents appears inside.



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

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC230281	PAG-02 General Permit	Issued	Middletown Township 27 N. Pennell Road Media, PA 19063	Middletown Township Delaware County	Delaware County Conservation District Rose Tree Park Hunt Club 1521 N. Providence Road Media, PA 19063 610-892-9484 RA-EPNPDES_SERO@pa.gov
PAC230237	PAG-02 General Permit	Issued	Aronimink Golf Club 3600 St. Davids Road Newtown Township, PA 19073	Newtown Township Delaware County	Delaware County Conservation District Rose Tree Park Hunt Club 1521 N. Providence Road Media, PA 19063 610-892-9484 RA-EPNPDES_SERO@pa.gov
PAC500066	PAG-02 General Permit	Issued	John Hoover 101 Hoover Ln Loysville, PA 17047	Spring Township Perry County	Perry County Conservation District 31 West Main Street P.O. Box 36 New Bloomfield, PA 17068 717-582-8988
PAC230277	PAG-02 General Permit	Issued	Aronimink Golf Club 3600 St. Davids Road Newtown Township, PA 19073	Newtown Township Delaware County	Delaware County Conservation District Rose Tree Park Hunt Club 1521 N. Providence Road Media, PA 19063 610-892-9484 RA-EPNPDES_SERO@pa.gov
PAC500036	PAG-02 General Permit	Issued	Gail Stephens 183 Riverview Rd Liverpool, PA 17040	Liverpool Township Perry County	Perry County Conservation District 31 West Main Street P.O. Box 36 New Bloomfield, PA 17068 717-582-8988
PAC500061	PAG-02 General Permit	Issued	Gail Stephens 183 Riverview Rd Liverpool, PA 17040	Liverpool Township Perry County	Perry County Conservation District 31 West Main Street P.O. Box 36 New Bloomfield, PA 17068 717-582-8988
PAC230215	PAG-02 General Permit	Issued	200 Ithan Investments LLC 200 S Ithan Avenue Wayne, PA 19087-2547	Radnor Township Delaware County	Delaware County Conservation District Rose Tree Park Hunt Club 1521 N. Providence Road Media, PA 19063 610-892-9484 RA-EPNPDES_SERO@pa.gov

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC210091	PAG-02 General Permit	Issued	Carlisle Construction Materials, Inc. 1285 Ritner Hwy Carlisle, PA 17013	Carlisle Borough Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
PAC560016	PAG-02 General Permit	Issued	Laurel View Village 2000 Cambridge Drive Davidsville, PA 15928	Conemaugh Township Somerset County	Somerset County Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 814-445-4652 SWRO
PAC560087	PAG-02 General Permit	Issued	Peoples Natural Gas of PA, LLC 3115 Elton Road Johnstown, PA 15904	Somerset Township Somerset County	Somerset County Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 814-445-4652 SWRO
PAC560090	PAG-02 General Permit	Issued	Peoples Natural Gas of PA, LLC 3115 Elton Road Johnstown, PA 15904	Somerset Township Somerset County	Somerset County Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 814-445-4652 SWRO
PAC210364	PAG-02 General Permit	Issued	PTV 1434, LLC 400 Penn Center Blvd Building 4 Ste 1000 Pittsburgh, PA 15235	Upper Frankford Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
PAC210276	PAG-02 General Permit	Issued	Center Valley Farms, LLC 75 Goodyear Road Carlisle, PA 17015	West Pennsboro Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
PAC210245	PAG-02 General Permit	Issued	Matthew Bietsch 218 Limekiln Dr Chambersburg, PA 17201	Lower Mifflin Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
PAC210334	PAG-02 General Permit	Issued	Marvin Yoder 185 Strohm Road Shippensburg, PA 17257	West Pennsboro Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
PAC210079	PAG-02 General Permit	Issued	Club Road Properties, LP 4400 Deer Path Road Suite 1 Harrisburg, PA 17110	Middlesex Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
PAC210184	PAG-02 General Permit	Issued	DGK Real Estate, LP 3425 Market Street Camp Hill, PA 17011	Middlesex Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812

EXHIBIT D

**PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

NPDES PERMIT NO: PAC210079A-1

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251--1387 and the Clean Streams Law, as amended, 35 P.S. §§ 691.1--691.1001,

Carlisle Development Partners, LLC
1660 International Drive, STE 500
McLean, VA 22102

Carlisle Development Partners LLC is authorized to discharge from a project site known as Project Bolt, located in Middlesex Township, Cumberland County to Conodoguinet Creek 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.

APPROVAL OF COVERAGE TO DISCHARGE UNDER THIS GENERAL NPDES PERMIT IS AUTHORIZED BEGINNING ON DECEMBER 8, 2024, AND WILL EXPIRE ON DECEMBER 7, 2029. WHEN THE GENERAL PERMIT IS RENEWED, REISSUED OR MODIFIED, THE FACILITY OR ACTIVITY COVERED BY THE APPROVAL FOR COVERAGE MUST COMPLY WITH THE FINAL RENEWED, REISSUED OR MODIFIED GENERAL PERMIT.

Coverage and authorization to discharge under the PAG-02 NPDES General Permit ("General Permit") are subject to the following conditions:

1. The permittee's Notice of Intent (NOI), Erosion and Sediment Control (E&S) Plan, and Post-Construction Stormwater Management (PCSM) Plan are incorporated into this approval of coverage.
2. If there is a conflict between the requirements in the NOI or its supporting documents and the terms and conditions of the General Permit, the permittee must comply with the terms and conditions of the General Permit.
3. The permittee's failure to comply with the terms, conditions, and effluent limitations of the General Permit is grounds for the Department of Environmental Protection (DEP) and/or a delegated county conservation district (CCD) to take an enforcement action, and/or to terminate or revoke coverage under this General Permit.

Coverage under the PAG-02 General Permit is authorized by:



**Vince McColium
Assistant District Manager
Cumberland County Conservation District**

EXHIBIT E



CUMBERLAND COUNTY
CONSERVATION DISTRICT

Conserving Natural Resources for Our Future

September 8, 2025

Patrick Pline
Carlisle Development Partners, LLC
1660 International Drive
McLean, VA 22102

Re: Approval of Minor Amendment to Permit Coverage
Cumberland Knoll (PPL Laydown)
NPDES Permit No. PAC210079A-2
Middlesex Township, Cumberland County

Dear Mr. Pline:

Under the authority of the federal Clean Water Act and Pennsylvania's Clean Streams Law, the Cumberland County Conservation District has approved your request for a minor amendment to your permit. The latest versions of the NOI PAG-02 and all supporting documents, including the Erosion and Sediment Control (E&S) Plan and Post-Construction Stormwater Management (PCSM) Plan, are incorporated into this approval, including the following plan drawings:

- The E&S Plan drawings for Cumberland Knoll (PPL Laydown), dated August 4, 2025, and last revised August 28, 2025.

The terms and conditions of your permit, including the expiration date, have not otherwise changed. In addition, if stormwater discharges associated with construction activities are expected to continue beyond the expiration date of your permit coverage, you must apply to renew your coverage as instructed by your permit.

If you have questions, please contact Noelle Bennese by e-mail at nrbennese@cumberlandcountypa.gov or by telephone at 717-240-5359 and refer to Permit No. PAC210079A-2.

Sincerely,

Vince McCollum
Assistant District Manager
Cumberland County Conservation District

cc: David Hanes, LIVIC Civil (dhanes@livicco.com) (approval letter only)
Nathan Phillips, DEP (natphillip@pa.gov) (approval letter only)
Eileen Gault, Middlesex Township (egault@middlesextwp.com) (approval letter only)



EXHIBIT F

PENNSYLVANIA BULLETIN

Volume 56
Saturday, January 31, 2026 • Harrisburg, PA
Number 5
Pages 583—778

See Part II page 743
for the Governor's Office
Regulatory Agenda

Part I

Agencies in this issue

The Courts
Capitol Preservation Committee
Department of Agriculture
Department of Banking and Securities
Department of Community and Economic
Development
Department of Environmental Protection
Department of Health
Department of Human Services
Department of Revenue
Department of Transportation
Governor's Office
Independent Regulatory Review Commission
Insurance Department
Office of the State Fire Commissioner
Pennsylvania Energy Development Authority
Pennsylvania Public Utility Commission
Public School Employees' Retirement Board
State Board of Nursing

Detailed list of contents appears inside.



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

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC361113	PAG-02 General Permit	Issued	Michael Kay TKSW Associates, LP 3905 Continental Drive Columbia, PA 17512	West Hempfield Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
PAC360279A-15	PAG-02 General Permit	Issued	Ed Foster Lancaster Airport Authority 500 Airport Road Lititz, PA 17543	Manheim Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
PAC361092	PAG-02 General Permit	Issued	Duane Hagelgans Blue Rock Regional Fire District 26 East Charlotte Street Millersville, PA 17551	Manor Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
PAC361099	PAG-02 General Permit	Issued	Sheldon Horst JeMar Management, LLC 311 Airport Drive P.O. Box 7 Smoketown, PA 17576	East Lampeter Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
PAC280102A-1	PAG-02 General Permit	Issued	Leslie Bowman & Willis M. Leshner Partnership 1153 Swamp Fox Road Chambersburg, PA 17202	Guilford Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Ste. 201 Chambersburg, PA 17202 717-264-5499 jschooley@franklinccd.org
PAC280226A-1	PAG-02 General Permit	Issued	Blue Mountain Finishing Farm, LLC 10315 Otterbein Church Road Newburg, PA 17240	Lurgan Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Ste. 201 Chambersburg, PA 17202 717-264-5499 jschooley@franklinccd.org
PAC210079A-3	PAG-02 General Permit	Issued	Carlisle Development Partners, LLC 1660 International Drive Ste 500 McLean, VA 22102	Middlesex Township Cumberland County	Cumberland County Conservation District 310 Allen Road Ste 301 Carlisle, PA 17013 717-240-7812 mmarsh@cumberlandcountypa.gov
PAC030014	PAG-02 General Permit	Issued	Bergad Specialty Foams and Composites 11858 State Route 85 Kittanning, PA 16201	Rayburn Township Armstrong County	Armstrong County Conservation District 124 Armsdale Road Suite 1 Kittanning, PA 16201 724-548-3425



**PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

NPDES PERMIT NO: PAC210079A-3

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251--1387 and the Clean Streams Law, as amended, 35 P.S. §§ 691.1--691.1001,

**Carlisle Development Partners, LLC
1660 International Drive STE 500
McLean, VA 22102**

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.

APPROVAL OF COVERAGE TO DISCHARGE UNDER THIS GENERAL NPDES PERMIT IS AUTHORIZED BEGINNING ON DECEMBER 30, 2025, AND WILL EXPIRE ON DECEMBER 7, 2029. WHEN THE GENERAL PERMIT IS RENEWED, REISSUED OR MODIFIED, THE FACILITY OR ACTIVITY COVERED BY THE APPROVAL FOR COVERAGE MUST COMPLY WITH THE FINAL RENEWED, REISSUED OR MODIFIED GENERAL PERMIT.

Coverage and authorization to discharge under the PAG-02 NPDES General Permit ("General Permit") are subject to the following conditions:

1. The permittee's Notice of Intent (NOI), Erosion and Sediment Control (E&S) Plan, and Post-Construction Stormwater Management (PCSM) Plan are incorporated into this approval of coverage.
2. If there is a conflict between the requirements in the NOI or its supporting documents and the terms and conditions of the General Permit, the permittee must comply with the terms and conditions of the General Permit.
3. The permittee's failure to comply with the terms, conditions, and effluent limitations of the General Permit is grounds for the Department of Environmental Protection (DEP) and/or a delegated county conservation district (CCD) to take an enforcement action, and/or to terminate or revoke coverage under this General Permit.

Coverage under the PAG-02 General Permit is authorized by:

**Thomas Swartz
E&S Program Manager
Cumberland County Conservation District**

EXHIBIT G

PENNSYLVANIA BULLETIN

Volume 56

Number 30

Saturday, July 25, 2026 • Harrisburg, PA

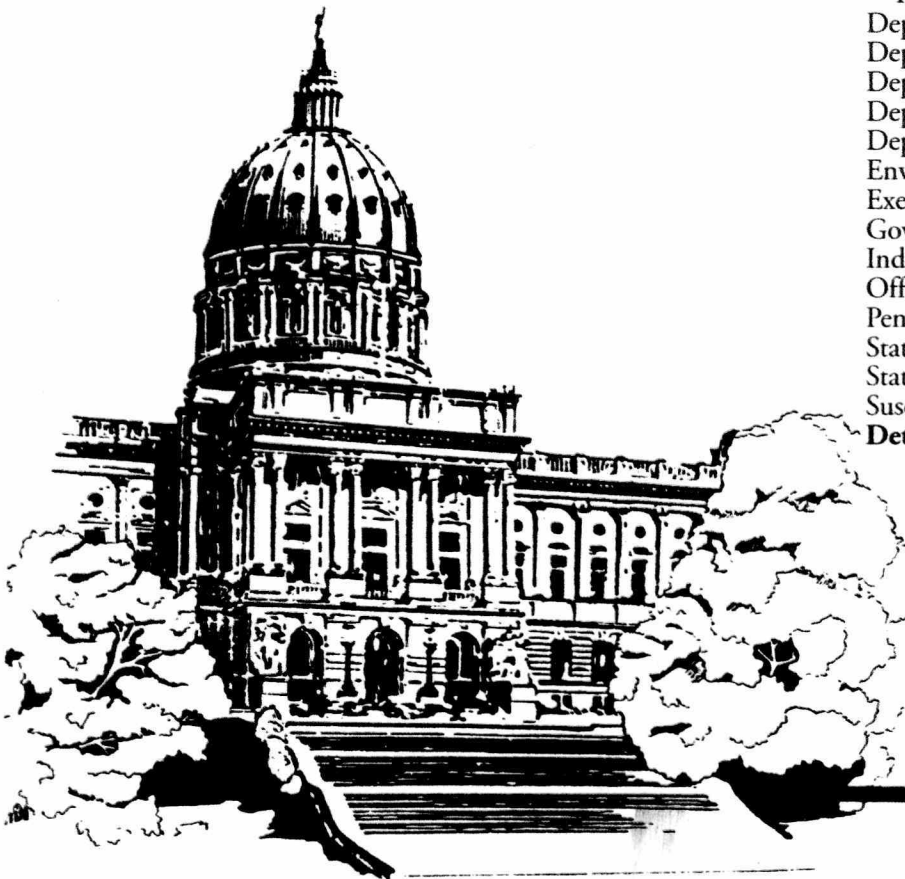
Pages 4341—4526

Part I

See Part II page 4485
for the Governor's
Office Regulatory Agenda

Agencies in this issue

The Courts
Department of Agriculture
Department of Banking and Securities
Department of Community and Economic
Development
Department of Conservation and Natural
Resources
Department of Environmental Protection
Department of Health
Department of Human Services
Department of Labor and Industry
Department of Revenue
Environmental Hearing Board
Executive Board
Governor's Office
Independent Regulatory Review Commission
Office of Administration
Pennsylvania Public Utility Commission
State Board of Chiropractic
State Employees' Retirement Board
Susquehanna River Basin Commission
Detailed list of contents appears inside.



<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC210428	PAG-02 General Permit	Issued	Vildana Muminovic 810 Crooked Stick Dr Mechanicsburg, PA 17050	Lower Allen Township Cumberland County	Cumberland County Conservation District 310 Allen Road Ste 301 Carlisle, PA 17013 717-240-7812 mmarsh@ cumberlandcountypa.gov
PAC210077A-1	PAG-02 General Permit	Issued	Fred A Gettys, LLP 1540 McCormick Road Mechanicsburg, PA 17055	North Middleton Township Cumberland County	Cumberland County Conservation District 310 Allen Road Ste 301 Carlisle, PA 17013 717-240-7812 mmarsh@ cumberlandcountypa.gov
PAC210079A-4	PAG-02 General Permit	Issued	Carlisle Development Partners LLC 1660 International Drive Ste 500 McLean, VA 22102	Middlesex Township Cumberland County	Cumberland County Conservation District 310 Allen Road Ste 301 Carlisle, PA 17013 717-240-7812 mmarsh@ cumberlandcountypa.gov
PAC670841	PAG-02 General Permit	Issued	Jackson Township 439 Roth's Church Road Spring Grove, PA 17362	Jackson Township York County	York County Conservation District 2401 Pleasant Valley Road Suite 101 Room 139 York, PA 17402 717-840-7430 yorkccd@yorkccd.org
PAC670859	PAG-02 General Permit	Issued	Department of Conservation & Natural Resources 400 Market Street 8th Floor Harrisburg, PA 17101	Warrington Township York County	York County Conservation District 2401 Pleasant Valley Road Suite 101 Room 139 York, PA 17402 717-840-7430 yorkccd@yorkccd.org
PAC370076	PAG-02 General Permit	Issued	Mohawk Area School District 385 Mohawk School Road New Castle, PA 16102	North Beaver Township Lawrence County	Lawrence County Conservation District 430 Court Street New Castle, PA 16101 724-652-4512
PAC280333 A-1	PAG-02 General Permit	Issued	Jagannath Property LLC 1479 Lincoln Way East Chambersburg, PA 17202-3341	Chambersburg Borough Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Ste. 201 Chambersburg, PA 17202 717-264-5499
pac461059	PAG-02 General Permit	Issued	Jeffrey D. Cardwell Norristown Area School District 401 N Whitehall Road Norristown, PA 19403	West Norriton Township Montgomery County	Montgomery County Conservation District 143 Level Road Collegeville, PA 19426 610-489-4506 RA-EPNPDES_SERO@ pa.gov



PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES

NPDES PERMIT NO: PAC210079 A-4

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251--1387 and the Clean Streams Law, as amended, 35 P.S. §§ 691.1--691.1001,

Mr. Petri Ottavainen
1660 International Drive
McLean, VA 22102

(permittee) is authorized to discharge from a project site known as **Pennsylvania Digital 1 (PAX-1) Phase 1A/1B**, located in **Middlesex Township, Cumberland County** to **UNT to Conodoguinet Creek (WWF, MF)**, **UNT to Conodoguinet Creek (WWF, MF) via wetlands** 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.

APPROVAL OF COVERAGE TO DISCHARGE UNDER THIS GENERAL NPDES PERMIT IS AUTHORIZED BEGINNING ON MAY 18, 2026 AND WILL EXPIRE ON DECEMBER 7, 2029. WHEN THE GENERAL PERMIT IS RENEWED, REISSUED OR MODIFIED, THE FACILITY OR ACTIVITY COVERED BY THE APPROVAL FOR COVERAGE MUST COMPLY WITH THE FINAL RENEWED, REISSUED OR MODIFIED GENERAL PERMIT.

Coverage and authorization to discharge under the PAG-02 NPDES General Permit ("General Permit") are subject to the following conditions:

1. The permittee's Notice of Intent (NOI), Erosion and Sediment Control (E&S) Plan, and Post-Construction Stormwater Management (PCSM) Plan are incorporated into this approval of coverage.
2. If there is a conflict between the requirements in the NOI or its supporting documents and the terms and conditions of the General Permit, the permittee must comply with the terms and conditions of the General Permit.
3. The permittee's failure to comply with the terms, conditions, and effluent limitations of the General Permit is grounds for the Department of Environmental Protection (DEP) and/or a delegated county conservation district (CCD) to take an enforcement action, and/or to terminate or revoke coverage under this General Permit.

Coverage under the PAG-02 General Permit is authorized by:

Vincent
McCollum

Digitally signed by Vincent
McCollum
Date: 2026.05.18
10:12:10 -04'00'

Vince McCollum
District Manager
Cumberland County Conservation District

EXHIBIT H



July 16, 2026

Service by electronic mail

Mr. William J. Cluck
Law Office of William J. Cluck
587 Showers Street
Harrisburg, PA 17104

RE: Permit No. PAC210079 A-4
Informal Hearing Determination
PAX 1 Data Center Project
Middlesex Township, Cumberland County

Dear Mr. Cluck:

On July 1, 2026, the Pennsylvania Department of Environmental Protection ("PADEP") held an informal hearing at its Southcentral Regional Office. in response to your request on behalf of your clients, Andrew and Rachael Dymski and Jody and Stanley Shivell, regarding the Cumberland County Conservation District's NPDES PAG-02 acknowledgement of coverage for a Major Amendment to Carlisle Development Partners, LLC's, Permit No. PAC210079 A-4 for the PAX1 Data Center Project ("Amendment 4"). Your request was received within 30 days after the Cumberland County Conservation District issued its acknowledgment of coverage for Amendment 4 and this letter addresses only that Amendment 4.

You provided written comments about the permit and approved plans as part of your request for the informal hearing. You also provided comments orally during the informal hearing. To the extent those comments addressed Amendment 4, PADEP provides the following responses as a result of the informal hearing.

PAC210079 A-4 permittee name:

You commented that the permittee name listed on page one of Permit PAC210079 A-4 was incorrectly identified as Petri Ottavainen. This was a clerical error and was corrected by the Cumberland County Conservation District on July 9, 2026. Carlisle Development Partners, LLC applied for the Amendment 4 and while the original amendment 4 cover letter properly identified Carlisle Development Partners, LLC, page 1 of the permit inadvertently named Petri Ottavainen on Amendment 4. Page 1 of Amendment 4 has been corrected by Cumberland County Conservation District.

PAC210079 A-4 Pennsylvania Bulletin Publication:

You commented that Amendment 4 was not published in the *Pennsylvania Bulletin*. Chapter 92a of the PADEP's regulations does not specify a timeframe for publishing an acknowledgment of coverage under a NPDES General Permit in the *Pennsylvania Bulletin*. Notice of CCCD's acknowledgment of coverage under the corrected Amendment 4 anticipated to be published in the

July 25, 2026 edition of the *Pennsylvania Bulletin*. That publication will fulfill the Cumberland County Conservation District's notification obligations for Amendment 4.

Violations:

You commented that outstanding violations prohibited the acknowledgment of Amendment 4. PADEP has not identified that outstanding violations existed at the time of Amendment 4 and there is no evidence of a pattern of violations or lack of intention or ability to comply with regulatory requirements for Carlisle Development Partners, LLC that would support the denial of coverage in Amendment 4.

Conclusion:

Aside from the error of naming the individual that has now been corrected, nothing presented in your request or at the informal hearing provides the PADEP a basis to amend or overturn the decision of the Cumberland County Conservation District on Amendment 4.

If you have any questions regarding this determination, please contact Mr. Adam Duh, Esq. at 717.787.0475 or by email at aduh@pa.gov.

Sincerely,

Scott R.

Williamson

Scott R. Williamson

Program Manager

Waterways and Wetlands Program

Digitally signed by Scott R.
Williamson
Date: 2026.07.16 15:40:23
-04'00'

cc: Cumberland County Conservation District, via email
Mr. Petri Ottavainen, Carlisle Development Partners, LLC, via email
Mr. Anthony Giorgione, Carlisle Development Partners, LLC, via email
Mr. and Mrs. Andrew Dymski, via first class mail
Mr. and Mrs. Stanley Shivell, via first class mail
Mr. Scott Gould, Esq., McNees, Wallace, and Nurick, via email
Mr. Errin McCaulley, Esq., McNees, Wallace, and Nurick, via email

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Notice of Appeal was served on this date upon the following:

First Class US Mail:

Carlisle Development Partners, LLC
1660 International Drive
McLean VA 22102

Date: August 13, 2026



William J Cluck, Esquire