

NOTICE is hereby given that Appellants Sierra Club, Center for Biological Diversity, Earthworks and FreshWater Accountability Project, on behalf of their members who will be aggrieved and adversely affected, hereby appeal to the Environmental Review Appeals Commission from the issuance by Appellee Craig W. Butler, Director of the Ohio Environmental Protection Agency (“Ohio EPA” or “OEPA”) of a Final Air Pollution Permit-To-Install to Appellee PTTGCA Petrochemical Complex (“PTTGCA”), OEPA Permit No. P0124972 (the “Permit”), on December 21, 2018. The Permit authorizes PTTGCA to install, operate, and discharge air pollutants from a new petrochemical plant, OEPA Facility ID 0607135004, in Dilles Bottom, Belmont County, Ohio (the “Facility”). The Permit was issued by the Director as a final action. This appeal is brought pursuant to Sections 3745.04 and 3745.07 of the Ohio Revised Code (“O.R.C.”).

Appellant Sierra Club is a national nonprofit organization of approximately 790,000 members nationwide dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment and to using all lawful means to carry out these objectives. The Ohio Chapter of the Sierra Club has nearly 22,000 members, including forty members who live and recreate in Belmont County. As part of this mission, Sierra Club advocates for a just transition to a clean energy economy. The Facility is at odds with this transition. Moreover, as described below, the Sierra Club’s members, especially those who live in Belmont County, would be threatened by the air and water pollution from the Facility.

Appellant Center for Biological Diversity (“CBD”) is a national nonprofit environmental organization whose mission is to protect the environment and wild spaces through science,

policy, education, and environmental law. CBD has 69,543 members nationwide, 911 of whom live in Ohio and four of whom live and recreate in Belmont County. CBD knows that the welfare of human beings is deeply linked to nature and the existence in our world of a vast diversity of wild animals and plants. Because diversity has intrinsic value, and because its loss impoverishes society, CBD works to secure a future for all species, great and small, hovering on the brink of extinction. CBD focuses on protecting the lands, air, waters and climate that species—including humans—need to survive. This Facility jeopardizes these vital resources.

Appellant Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the adverse impacts of mineral development while promoting sustainable solutions. Earthworks stands for clean air, water and land, healthy communities, and corporate accountability. The organization works for solutions that protect both the Earth's resources and our communities.

Appellant FreshWater Accountability Project ("FreshWater") is an Ohio-based, grassroots, nonprofit organization with a mission to preserve freshwater supplies through education and community action, and it is dedicated to promoting the health of current and future generations by protecting the environment. FreshWater has members located throughout the State of Ohio, including members who live, work, worship, own property and recreate in Belmont County. FreshWater protects the environment of Ohio through advocacy, legal action, and education.

All four Appellant organizations have members who live, work, travel and/or recreate in and around the vicinity of the Facility and areas downwind therefrom. These members will be aggrieved and adversely affected by the emission of pollutants, including particulate matter, nitrogen oxides, and volatile organic compounds, from the Facility as authorized by the Permit. Appellants' members will be aggrieved and adversely affected by the OEPA's action challenged

herein because the activities and emissions authorized by the Permit will increase the level of pollution in the air that is breathed by its members. In addition, the emissions from the Facility will adversely affect the use and enjoyment by its members of the Ohio River, other rivers, lakes streams and natural areas near the PTTGCA facility and other areas downwind from the Facility. Appellants' members will also be adversely affected by the Facility's carbon dioxide emissions and other greenhouse gasses and the climate change to which such emissions will contribute.

All the Appellants were parties to the proceeding before the Director regarding the Permit as they filed written comments on the draft permit.

A copy of the Permit appealed hereby is attached to this Notice. An electronic copy of the permit is also available on OEPA's web-site at:

http://wwwapp.epa.ohio.gov/dapc/permits_issued/1797654.pdf.

ASSIGNMENTS OF ERROR

The Director's issuance of the final Permit, OEPA No. P0124972, was unreasonable and unlawful, and was issued in violation of the requirements O.R.C. Chapter 3704 and Ohio Adm. Code Chapter 3745-31, and related requirements of federal law, for multiple reasons, including but not limited to, the following:

1. The Director unlawfully and unreasonably based his issuance of the Permit on a fatally flawed air dispersion model and modeling protocol that does not reliably establish whether the facility will violate National Ambient Air Quality Standards (NAAQS) for multiple pollutants in the amounts it is authorized to emit in the Permit.
2. The Director unlawfully and unreasonably based his issuance of the Permit on a fatally flawed air dispersion model and modeling protocol that does not reliably

establish whether the facility will comply with the PSD Class II increment and the Ohio Acceptable Incremental Impact (“OAI”) levels for multiple pollutants in the amounts it is authorized to emit in the Permit.

3. The Director unlawfully and unreasonably based his issuance of the Permit on a fatally flawed air dispersion model and modeling protocol that failed to utilize on-site meteorological data or off-site data properly demonstrated as being representative of the meteorological conditions at the Facility.
4. The Director unlawfully and unreasonably based his issuance of the Permit on a fatally flawed air dispersion model and modeling protocol that failed to accurately assess the background concentration of the modelled pollutants due to multiple errors involving the rejection of high background readings without reasonable justification, including but not limited to, deleting all ambient NO₂ data for 2016, improperly averaging background concentration data from multiple monitoring sites, and failing to consider multiple facilities listed in the Regional Source Inventory.
5. The Director unlawfully and unreasonably based his issuance of the Permit on a fatally flawed air dispersion model and modeling protocol that failed to reasonably determine the Potential To Emit (“PTE”) of the quantity of air contaminants to be emitted from the Facility arising from, but not limited to, the following errors:
 - a) emissions inventory errors,
 - b) ignoring short-term peak emissions,
 - c) consistently utilizing unreliable or unsupported emissions rates,

- d) basing the Facility's PTE through misuse of the average emission factors found in U.S. EPA guidance document AP-42,
 - e) use of unreliable natural gas combustion emissions factors found in AP-42,
 - f) use of high and unjustified VOC destruction efficiencies for the flares and thermal oxidizers at the Facility, and
 - g) use of high and unjustified control efficiencies of fugitive VOC emissions by the Leak Detection and Repair program approved in the Permit.
6. The Director unlawfully and unreasonably based his issuance of the Permit on a fatally flawed air dispersion model and modeling protocol containing a flawed application of Modeled Emission Rates for Precursors (MERP) to assess impacts of secondary pollutants.
 7. The Director unlawfully and unreasonably based his issuance of the Permit on monitoring requirements that are insufficient to assure reasonable compliance with permit limits and assumptions, including but not limited to, inadequate frequency of stack testing, failure to incorporate continuous parametric monitoring, and failure to assure compliance with permit conditions and state air nuisance requirements through incorporating adequate monitoring, including fenceline monitoring.
 8. The Director unlawfully and unreasonably based his issuance of the Permit on numerous limitations and standards that lack the specificity necessary to be enforceable as a practical or legal matter, including, but not limited to, limitations and standards based on inadequately defined modes of operations and "Best

Available Technology (“BAT”) and “Best Available Control Technology” (“BACT”) standards based on entirely general operational or design terms lacking any clear or quantitative parameters necessary to render them enforceable.

9. The Director unlawfully and unreasonably based his issuance of the Permit on flawed BACT analyses for control technologies for New Source Review (NSR) pollutants through consistently using two flawed methodologies:
 - a) utilizing purported work practice standards that are too vague to insure maximum stringency of controls, and
 - b) allowing New Source Performance Standards (“NSPS”) to automatically constitute BACT without consideration of any more stringent, cost-effective standards.
10. The Director unlawfully and unreasonably based his issuance of the Permit on a flawed “top-down” BACT analysis for the control efficiency for the Selective Catalytic Reduction (SCR) technology approved for NO_x control of the Facility’s six cracking furnaces.
11. The Director unlawfully and unreasonably based his issuance of the Permit on a flawed “top-down” BACT analysis for the control of fugitive emissions of volatile organic compounds (“VOCs”) from the facility.
12. The Director unlawfully and unreasonably based his issuance of the Permit on emissions source characteristics information in the application that was identified as non-final and “subject to change” with no provision for how final characteristics are to be incorporated into the permit in a reliable or lawful manner.

Appellants reserve the right to amend or supplement this Notice of Appeal upon the discovery of additional facts or issues that may be determined upon the filing of the Certified Record or as may be determined in the course of discovery during the proceedings herein.

REQUESTED REMEDY

Based upon the above, Appellants respectfully request that the Commission find the action of the Direction in issuing the Final Air Pollution Permit-to-Install No. P0124972 unlawful and unreasonable, vacate the Permit, and remand this matter to the Director for further action as required by law and for such other relief as appropriate and just.

Dated: January 18, 2019

Respectfully Submitted,

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**COUNSEL FOR APPELLANT
SIERRA CLUB**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Notice of Appeal was served via first class, certified U.S. mail on this 18th day of January, 2019, upon the following:

Director
Ohio Environmental Protection Agency
50 W. Town Street, Suite 700
Columbus, Ohio 43215

and

PTTGCA PETROCHEMICAL COMPLEX
2800 Post Oak Blvd., Suite 2401
Houston, Texas 77056

and by regular U.S. Mail upon:

Chief of the Environmental Enforcement Section
Office of the Attorney General
30 East Broad Street, 25th Floor
Columbus, Ohio 43215

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Sierra Club