

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In the matter of:

SIERRA CLUB, ET AL.	:
	:
Petitioners,	:
	:
v.	: Docket No. 260 M.D. 2017
	:
COMMONWEALTH OF PENNSYLVANIA,	:
DEPARTMENT OF ENVIRONMENTAL	:
PROTECTION, ET AL.	:
	:
Respondents.	:

Stipulation of Settlement
and Application for Stay

NOW COMES, the Sierra Club, the Lower Susquehanna Riverkeeper, and the Commonwealth of Pennsylvania, Department of Environmental Protection (Department), by and through their respective undersigned counsel, to file this Stipulation of Settlement in this matter.

Petitioners brought this Petition for Review pursuant to the Clean Streams Law, 35 Pa. Stat. § 691.601(c), and other authorities, seeking action on outstanding

pollution discharge permit renewals – called National Pollutant Discharge Elimination System, or “NPDES”, permits – for certain coal fired power plants in the Commonwealth. Petitioners have sought declaratory and injunctive relief directing the Department to complete the NPDES process for these permits expeditiously.

The Department has filed Preliminary Objections seeking dismissal of the Petition on various grounds, and briefs regarding the Objections have been filed. Oral argument on the Preliminary Objections is presently scheduled for February 7, 2018.

The parties have agreed to an amicable resolution of this matter on the following terms:

1. The Department will issue draft NPDES Permits for the following dischargers by the corresponding dates:

Cheswick Generating Station – January 15, 2018
Brunner Island – January 15, 2018
Montour Steam Electric Station – January 15, 2018
Keystone Generating Station – April 15, 2018
Ebensburg Power Company – April 15, 2018
Conemaugh Generating Station – June 30, 2018
Homer City Generating Station -- June 30, 2018
Cambria Cogen Company -- June 30, 2018
Bruce Mansfield Generating Station – July 31, 2018
Colver Power Plant – September 30, 2018.

2. It is the Department's current intent, and it will use its best efforts, to issue final NPDES Permits for these facilities by the end of March 2019.

3. In exchange for the foregoing commitments, the parties agree to jointly request that the Court vacate the scheduled argument date on the Preliminary Objections and stay the case pending implementation of this Stipulation of Settlement. Upon fulfillment of the terms of this Stipulation of Settlement, the case will be dismissed.

4. During the period of the stay, the Department will file periodic Status Reports with the settling parties confirming that the Department remains on track to timely fulfill the foregoing commitments. A Status Report will be submitted to Petitioners' counsel at least once every sixty days from the entry of this Stipulation.

5. In the unlikely event the Department is unable to timely fulfill the foregoing commitments, the Department will confer with Petitioners as to the bases for any delay and the parties will endeavor in good faith to reach an agreeable resolution.

6. In the event the Department fails to timely issue a draft or final NPDES permit as provided by this Stipulation of Settlement, Petitioners may at

any time request that the Court lift the stay of the case and return the Preliminary Objections to the oral argument calendar.

Respectfully submitted:

/s/ Mary Martha Truschel

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Dated: January 10, 2018

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	:
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ORDER

NOW, this 10th day of January 2018, upon consideration of the Stipulation of Settlement filed by the parties to this matter, it is hereby ORDERED that the Stipulation is hereby approved and this action is hereby stayed. This action shall be deemed dismissed on April 1, 2019, unless one or both parties seeks further relief from the Court before that date. The oral argument on pending Preliminary Objections scheduled for February 7, 2018 is hereby vacated.

BY THE COURT:

JUDGE