

City of Philadelphia Board of License and Inspection Review

1401 John F. Kennedy Blvd.
Municipal Services Building - 11th Floor
ATTN: Board of License and Inspection Review
Philadelphia, PA 19102

Date: December 27, 2017

Appeal No: _____

APPEAL

The undersigned has been aggrieved by action taken by the City of Philadelphia and hereby appeals to the Board of License and Inspection Review.

The action of the Department from which this appeal is taken:

Premises Cited: 4301 Wissahickon Avenue, Philadelphia, PA 19140

Date of Violation/Refusal Notice: November 29, 2017

Violation/Refusal Appealed: Issuance of Air Permit, Approval No: IP17-000009, by Air Management Services for Plant ID: 01573

The grounds for appeal are as follows:

On behalf of myself, my family, my friends, my co-workers, and my neighbors who live, work, and attend school in the Nicetown neighborhood, along with the environmental and social justice community of Philadelphia, I appeal the issuance of Air Permit Approval No: IP17-000009 by Air Management Services (AMS) to the Southeastern Pennsylvania Transportation Authority (SEPTA) for building and operating a gas-fueled electricity generation facility at its Roberts Complex located at 4301 Wissahickon Avenue, Philadelphia, PA 19140 because this power plant will adversely affect our health and quality of life, in violation of our civil rights.

I am the Executive Director of The Center for Returning Citizens; my organization - along with the parents associations, faith congregations, and other citizen groups of Nicetown/Tioga - oppose the SEPTA project enabled by issuance of this Air Permit. We respectfully request that the Board of License and Inspection Review rescind Air Permit IP17-000009 and prohibit AMS from issuing an Air Permit for Plant 01573 unless and until a health impact study has been performed by a qualified, independent professional and a report of its findings has been made public. We make this appeal and request on the following grounds:

1. The Air Permit would result in toxic emissions that will adversely affect the health of the community.
2. The Air Permit would enable SEPTA to perpetuate environmental racism on the predominantly African-American population of Nicetown and, thereby, would make the City of Philadelphia complicit in such environmental racism.
3. The Air Permit would violate the Environmental Rights provision of the Commonwealth of

Pennsylvania Constitution, Article 1, Section 27, which states, in part, “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.”

4. The Air Permit provisions would be inadequate to monitor toxic emissions and intervene when conditions threaten the lives of Philadelphia citizens.
5. AMS acknowledges that “The neighborhood surrounding the proposed CHP project qualifies as an ‘Environmental Justice Area’ pursuant to both the City’s and Commonwealth’s Environmental Justice Policy,” a determination that requires “heightened scrutiny” of an air permit application. AMS has chosen to ignore such Environmental Justice Policies, asserting that the project should be classified as a Synthetic Minor Source of toxic emissions that does not trigger New Source Review Requirements, despite the capacity of the engines of the facility to generate air pollution in amounts that clearly identify the project as construction of a “Major Source.” AMS relies on SEPTA to operate the facility “taking emission limits that require operation below the ‘Major Source’ threshold.” But, SEPTA can operate as a Major Source of pollution through most of the year and then shut down just long enough to avoid inference of permit violations. Consequently, issuance of the air permit is the result of a perversion of both the letter and the intentions of heightened scrutiny.
6. Although heightened scrutiny requires SEPTA to demonstrate that the benefits of the proposed project “significantly outweigh the environmental and societal costs,” the equipment being replaced - boilers to heat water, primarily for use in washing buses - accounts for only 5% of the heat to be generated. If modernization were the actual motivation for the project rather than a subterfuge, new boilers could simply replace the old ones, thereby avoiding environmental and societal costs altogether. The other 95% of the heat to be generated will be dedicated to electricity generation for delivery to the Wayne Junction Substation to power part of the Regional Rail system. But, Exelon provides adequate electricity currently through two transmission lines and asserts that it can continue to provide power reliably during the future. The project therefore provides unnecessary redundancy - without improving resiliency - and SEPTA has demonstrated no need. SEPTA has declined to carry out a full Analysis of Alternatives in order to examine a full range of options for addressing the needs that the plant is ostensibly designed to serve. AMS has not required that they conduct such an analysis.

Furthermore, no benefit whatsoever is provided for residents of the Nicetown community - no jobs, no transportation, no economic activity whatsoever. In fact, rather than improve the Nicetown economy, this facility would actually impede commercial development by discouraging new investments.

7. AMS considered emissions of Ultrafine Particulate Matter (UFPs) “as incorporated in PM2.5 and PM10 criteria pollutants,” thereby dismissing their “significance.” Such dismissiveness displays a willful ignorance of the scientific distinctions between particulate matter larger than 10 and 2.5 microns and UFPs, particles that are smaller by orders of magnitude. Whereas particles of sizes in the 10 and 2.5 micron range lodge in the lungs, UFPs pass through the lungs into the blood stream where they incur incalculable damage to the heart, other vital organs, and neurological function. Furthermore, because they are so small, the weight of UFPs is negligible, making their measurement as a subset of larger PM categories absurd as a criteria for analysis.

Documentation supporting these grounds and providing background and context for public opposition to this SEPTA project is attached and/or will be presented at the hearing for this appeal. The Board should be aware of the following:

- City Council Members Cindy Bass and Curtis Jones, whose districts are in proximity to the Plant

01573 location, along with Blondell Reynolds Brown (Chair of the Committee on the Environment), Kenyatta Johnson (Chairman of the Committee on Transportation and Public Utilities), and Helen Gym (Chair of the Committee on Children and Youth) are on the public record requesting delay in approval of this SEPTA project until an independent health study has been performed. Furthermore, state legislators whose constituents are directly affected by the project, including PA Representative Rosita Youngblood, are on the public record in opposition to this project proceeding.

- Mayor Kenney has committed the City of Philadelphia to meet its share of the Paris Climate Accord. Investment in new fossil fuel infrastructure is counter to stated City policy.
- SEPTA operates its largest bus depot at the Midvale site, serving 300 diesel and diesel hybrid buses. Diesel emissions are a major source of air pollution in the city, with a high concentration in Nicetown.
- The EPA reports that the Nicetown location is in the 90th to 95th percentile nationally for exposure to diesel particulate matter (See <https://drive.google.com/file/d/0BzCYsivhDfSQUmxpd0xPNzEzLWc/view?ths=true>). The SEPTA project would impose additional burden on an already-stressed, minority community.
- The Nicetown community (Zip Code 19140) experiences the highest rate of childhood asthma in the City, 31% -- which is more than three times the national average. Studies conducted by SEPTA and reviewed by AMS model emissions and infer health impacts based on computations of toxic output. A health impact study would address health outcomes rather than pollution output.
- The provisions of Permit IP 17-000009 limit measurements to after-the-fact averages. Continuous monitoring is necessary to identify actual toxic emissions and require shut-down of the facility on hot days, when atmospheric inversions occur, and air quality is at dangerous levels.
- The City has not installed ambient air quality (AQ) monitors in the vicinity of the project. SEPTA asserts that zero air pollution will disseminate from the 50' stack to any area beyond the site perimeter, irrespective of however the winds may blow - counter to logic and scientific experience. Without any City AQ monitors in the vicinity or continuous measurement equipment on-site, AMS would be willfully ignorant of actual conditions affecting the health of Philadelphia citizens.
- SEPTA has made a series of misrepresentations and fraudulent claims with respect to this project. Evidence exists that the project is a result of political pressure brought by the fossil fuel industry; no information has been provided to support the contention that the project is necessary for SEPTA. PECO can continue to provide power to the Wayne Junction Substation through its two, redundant, existing power transmission lines.
- Residents of Nicetown will receive no benefit whatsoever from the project - no jobs, no transportation services, etc. - while being subjected to additional toxic burden, clearly resulting in environmental racism in addition to the high levels of pollution already being imposed by SEPTA from the Midvale Bus Depot.

Name of Appellant (PRINT CLEARLY) J. Jondhi Harrell

Appellant's Address 3850 Germantown Avenue

City State ZIP Philadelphia, PA 19140

Daytime Telephone Number 215-223-1680

Evening Telephone Number 215-791-0645

E-mail Address JHarrell@tcrcphilly.org

Fax Number N/A

Attorney (if any) N/A

Attorney's Address _____

City State ZIP _____

Signed (Appellant's Signature)

By signing above appellant certifies that the statements contained herein are true and correct to the best of the appellant's knowledge and belief.

PLEASE READ THE FOLLOWING CAREFULLY:

Appeal must be signed by appellant or by attorney representing appellant. Representation by attorney is not required. Two (2) copies of appeal must be filed at the office of the Board, at the address given above, within thirty (30) days of the first notice of violation. Please attach two (2) copies of any notice or letter from which you are appealing. If you comply with the orders of the Department at any time after this application is filed, please notify the Board in writing at the above address.

81-186 (Rev. 06/13)