



September 22, 2017

Commissioners
Delaware River Basin Commission
P.O. Box 7360, 25 Police Drive
West Trenton, NJ 08628-0360

Re: Omission of the 230 kV substation from Birdsboro Power, LLC, DOCKET NO. D-2016-004-1

Dear Commissioners,

The Delaware Riverkeeper Network (DRN), a private non-profit organization, champions the rights of our communities to a Delaware River and tributary streams that are free-flowing, clean, healthy, and abundant with a diversity of life. DRN has nearly 20,000 members throughout the Delaware River Watershed including residents of the Borough of Birdsboro, Union, Amity, Oley and Rockland Townships, and Berks County.

I am writing to ensure that what appears to be a concerning omission in the above referenced docket is brought to your attention.

In December 2016, you approved Docket No. D-2016-004-1 which approved the Birdsboro Power energy generating facility project and its consumptive water use. This project consists of the construction of a nominal 485 megawatt (MW) electric generation facility employing natural gas-fired combined-cycle (NGCC) combustion turbines; and appurtenant water and electric transmission lines. This docket also constituted a special use permit in accordance with section 6.3.4 of the Commission's *Flood Plain Regulations* (18 CFR 415.33).

DRN wishes to draw to your attention to what appear to be important omissions in Docket No. D-2016-004-1. This docket notes that construction of the power plant facilities require the project site land surface elevation to be raised 4 feet with compacted soil fill with the final grade at least 1 foot above the regulatory flood elevation to comply with the Commission's Flood Plain Regulations. It is further noted in this docket that construction of the water, sewer, and natural gas fuel utilities required to serve the proposed power plant "will be located below grade and as such, will be protected from damage as a result flood fringe inundation." However, this description of the utilities required to serve the project is

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incomplete as it does not describe the site of the 230kV ring bus station to connect the proposed power plant into the existing power grid.

The approved docket indicated that seven transmission line monopoles would be located in the floodway¹ and 12 transmission line monopoles would be located in the flood fringe. Docket language under the Flood Plain Regulations portion of the docket notes that DRBC considered the potential impact on flood elevations of these monopoles to be negligible and suggested that neither these impacts nor the water, sewer, and natural gas fuel utilities supporting the power plant were expected to exacerbate flooding. No mention is made of the impacts associated with the 230kV ring bus station, which will occupy nearly six acres.²

DRBC Docket No. D-2016-004-1 constitutes a special permit in accordance with section 6.3.4 of the Commission's *Flood Plain Regulations* (18 CFR 415.33) for the Birdsboro Power facility and associated appurtenances within the flood fringe and floodway subject to DECISION Condition C.I.g. in this docket. DECISION Condition C.I.g. states:

g. The Birdsboro Power facility shall be elevated on fill or floodproofed up to at least one foot above the flood protection elevation (1 foot above the 100-year flood elevation at the site). No structure, fill, spoil, waste, or storage of equipment, chemicals, or products is permitted in the floodway.

In fact, DRBC Docket No. D-2016-004-1 mentions the substation just three times and then only in the context of the point at which the transmission line ends:

1. The proposed line will be approximately 4 miles long and will terminate at a new 230-kV ring bus station in Robeson Township, Berks County, Pennsylvania. (p. 6)
2. The route will continue underground following the S.R. 724 ROW in a westward direction until it turns north at Boonetown Road and terminates at the new 230-kV ring bus substation and ties into the existing power grid. (p. 6)
3. The total estimated area of land disturbance along the 4-mile electric transmission line and at the ring bus station is approximately 8 acres.(p. 7)

¹ DRN notes a discrepancy between the DRBC docket approved for the Birdsboro Power facility and the Birdsboro Power's *Joint Application for Pennsylvania Chapter 105 Water Obstruction and Encroachment Permit and U.S. Army Corps of Engineers Section 404 Permit*. Birdsboro Power's draft docket identified just one monopole as being located in the floodplain. After DRN compared Birdsboro Power's proposed transmission line route, depicted on a map in which the applicant failed to indicate the floodway, with Federal Emergency Management Agency's (FEMA's) National Flood Hazard Layer (NFHL) mapping for the proposed transmission line route, DRN determined that 9 of the 29 planned monopoles would actually be located in the regulatory floodway. The final docket indicated that seven monopoles would be located in the floodway. Now Birdsboro Power's *Joint Application for Pennsylvania Chapter 105 Water Obstruction and Encroachment Permit and U.S. Army Corps of Engineers Section 404 Permit* identifies eight monopoles as being located in the floodway. Has the transmission line been modified since the Commissioners approved this docket or did the applicant provide incomplete or inaccurate information to DRBC?

² Dawood Engineering, Inc. (February 2017) Requirement L: Environmental Assessment Form – Enclosure D. JOINT PERMIT APPLICATION: Birdsboro Power, LLC, Borough of Birdsboro and Robeson, Union and Exeter Township, Berks County, PA.
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As noted, the land required for the substation appears to be included in the total area to be disturbed by the transmission, but no mention of floodplain impacts associated with the substation site is included in the docket. Yet, the proposed substation will be built in the floodplain. The site of the proposed substation, in Robeson Township, is located in both the flood fringe and the flood way (see Attachment A). Flooding has been documented as occurring at the site under current land use conditions even without a significant rain event.

The areas within the Robeson Township adjacent to the Schuylkill River are particularly low lying areas and are subject to minor flooding even after moderate rain or thaw conditions.³

Birdsboro Power has been aware of need for floodplain filling at the proposed substation site since at least December 2016 (emphasis added):

Initial surveys indicate portions of the AA2-115 interconnection substation site are in the 100-year flood plain of the Schuylkill River. Due to geology/topography and environmental impacts of the proposed substation site, the Developer must work through Transmission Owner on design details relative to the civil site development design requirements for raised elevation of the substation site and access road and associated environmental mitigation requirements.⁴

Robeson Township's Floodplain Management ordinance requires:

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.⁵

Filling the floodplain to comply with this requirement appears to be planned in order to secure Robeson Township zoning approval:

[T]he current [substation] design is, or can readily be made, generally consistent with the Robeson Township Floodplain Management and Stormwater Management Ordinances.⁶

No DECISION Conditions in DRBC Docket No. D-2016-004-1 authorize floodplain filling in Robeson Township. This omission of the substation suggests the Birdsboro Power has failed to secure a special permit in accordance with section 6.3.4 of the Commission's *Flood Plain Regulations* (18 CFR 415.33). No work should be allowed to proceed on the substation until it is fully and properly permitted.

Without such approval, Robeson Township should not be allowed to permit the construction of the substation in the floodplain. Robeson Township's Stormwater Management ordinance requires that:

³ Dawood Engineering, Inc. (December 2016). Hydrologic and Hydraulic Report for Birdsboro Power, LLC Electric Transmission Line

⁴ PJM Interconnection. (December 2016). Generation Interconnection Facility Study Report For PJM Generation Interconnection Request Queue Position AA2-115 S. Reading-Boyetown 230 kV

⁵ Township of Robeson. Municipal Ordinance, CHAPTER 8: FLOODPLAIN. § 503. Design and Construction Standards.

⁶ Kraft, G.D. 4 Feb 2017. Letter to Toby R. Stutzman, Dawood Engineering, Inc., Re: *Birdsboro Power, LLC, KE File - A278c*

any activities that require an NPDES Permit for Stormwater Discharges from Construction Activities, a PaDEP Joint Permit Application, a PennDOT Highway Occupancy Permit, or any other permit under applicable state or federal regulations or are regulated under Chapter 105 (Dam Safety and Waterway Management) or Chapter 106 (Floodplain Management) of PaDEP's Rules and Regulations, the proof of application for said permit(s) or approvals shall be part of the plan.⁷

Birdsboro Power cannot provide a special use permit for floodplain filling at the substation site in accordance with section 6.3.4 of the Commission's *Flood Plain Regulations* (18 CFR 415.33) because the substation was omitted from the DRBC docket.

The omission of the 230 kV ring bus station from DRBC Docket No. D-2016-004-1 merits immediate reconsideration of this docket, given the status of other permits associated with this project. However, the applicant should now be required to fully study the cumulative impacts associated with fill needed to raise the floodplain where the substation will be located as well as the fill at the power plant site. The DRBC reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin. It should assert those rights now to ensure that the resources of the Delaware River Basin are protected.

DRN requests at this time that DRBC reopen DRBC Docket No. D-2016-004-1 for comment so that the full impacts of the proposed 230 kV substation be considered in the context of the power plant, transmission line, water line and any floodplain filling required to accomplish this project.

Respectfully submitted,



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the Delaware Riverkeeper

cc: Steven Tambini, Executive Director, Delaware River Basin Commission
David Kovach, P.G., Manager, Delaware River Basin Commission
Michael A. Bliss, Lieutenant Colonel, District Engineer, U.S. Army Corps of Engineers, Philadelphia District
Ed Muzic, Section Chief, Waterways & Wetlands Program, Southcentral Region, Pennsylvania Department of Environmental Protection
Christopher Smith, Chairman, Robeson Township Board of Supervisors
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Galen L. Brown, Secretary, Robeson Township Board of Supervisors
Harold Steve, Robeson Township Board of Supervisors
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⁷ Township of Robeson. Municipal Ordinance, CHAPTER 20-A: STORMWATER. § 404. Plan Submission.
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