

# ENVIRONMENTAL HEARING BOARD 2nd Floor, Rachel Carson State Office Building 400 Market Street, Post Office Box 8457 Harrisburg, Pennsylvania 17105-8457

CLEAN AIR COUNCIL, Appellant,
135 South 19th Street, Suite 300
Philadelphia, PA 19103
(215) 567-4004

v.

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION, Appellee,

and

ROBINSON POWER COMPANY, LLC, Permittee.

EHB Docket No.\_\_\_\_

**ELECTRONICALLY FILED** 

**NOTICE OF APPEAL** 



#### NOTICE OF APPEAL FORM

## APPEAL INFORMATION

1. Name, address, telephone number, and email address (if available) of Appellants:

Clean Air Council
135 South 19th Street, Suite 300
Philadelphia, PA 19103
(215) 567-4004
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- 2. Describe the subject of your appeal:
- (a) What action of the Department do you seek review?

(NOTE: If you received written notification of the action, you must attach a copy of the action to this form.)

Appellant seeks review of the Department of Environmental Protection's ("Department") issuance of **Plan Approval No. 63-00922D** (the "Plan Approval") to **Robinson Power Company, LLC**, 563 Route 18, PO Box 127, Burgettstown, PA 15021-2120. The Plan Approval is attached hereto as Exhibit A. The Department sent Appellant notice of this action by email at 2:20 p.m., June 15, 2021. That email is attached hereto as Exhibit B.

(b) Which Department official took the action?

Mark R. Gorog, P.E./MRG, Program Manager, Bureau of Air Quality, Southwest Regional Office, issued the Plan Approval.

(c) What is the location of the operation or activity which is the subject of the Department's action (municipality, county)?

The proposed facility would be located in Robinson Township, Washington County, PA.

(d) How, and on what date, did you receive notice of the Department's action?

Appellant received notice of the Department's action upon reading the webpage the Department established for the Plan Approval and associated review on June 14, 2021.

3. Describe your objections to the Department's action in separate, numbered paragraphs.

(NOTE: The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Attach additional sheets if necessary.)

A. The Plan Approval contains an erroneous ammonia emissions limit.



- B. The Plan Approval contains erroneous combustion turbine and facility-wide emissions limits for carbon monoxide, particulate matter, and volatile organic compounds.
- C. The Department failed to properly verify the information it used in conducting its BACT and LAER analyses and otherwise erred in conducting its BACT and LAER analyses.
- D. The Plan Approval does not contain operational requirements sufficient to make the combustion turbine emissions limits specified in the Plan Approval practicably enforceable.
- E. The Plan Approval does not contain provisions sufficient to ensure the proper operation of the oxidation catalysts.
- F. The Department has not provided sufficient information to confirm that the operation of the oxidation catalysts will achieve the BACT standards.
- G. The Department failed to conduct a proper analysis of projected air quality impacts as a result of growth associated with this facility, the secondary emissions that would ensue, and all other additional impacts from the facility.
- H. The Department used inappropriate and unsubstantiated assumptions, misapplied guidance, and otherwise failed to properly conduct the significant impact level analysis, resulting in an air quality modeling analysis that does not reveal the actual impact of the facility.
- I. The Department violated the environmental rights of Appellant and other members of the public, as established in Article I, Section 27 of the Pennsylvania Constitution, by issuing the Plan Approval despite the immense levels of deleterious pollution the construction and operation of the facility would generate in an area already heavily burdened by poor air quality.
- J. The Department violated its trustee duties as established in Article I, Section 27 of the Pennsylvania Constitution by permitting Robinson Power Company, LLC to significantly degrade the natural environment by approving the plan approval for this facility.
- K. The Plan Approval is otherwise unsupported by fact, contrary to law, arbitrary, capricious, unreasonable, and/or an abuse of discretion.
- L. Appellant reserves the right to amend this Notice of Appeal to include additional objections that may arise during further investigations and discovery in this matter.
- 4. Specify any related appeal(s) now pending before the Board. If you are aware of any such appeal(s) provide that information.

Appellant is not aware of any related appeals.



#### SIGNATURE PAGE

By filing this Notice of Appeal with the Environmental Hearing Board, I hereby certify that the information submitted is true and correct to the best of my information and belief. Additionally, I certify that a copy of this Notice of Appeal was served upon each of the individuals indicated in the Certificate of Service on the date below.

Dated: July 14, 2021 /s/ Alexander G. Bomstein

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## **CERTIFICATE OF SERVICE**

I, the undersigned, certify that a true and correct copy of the foregoing Notice of Appeal was filed with the Pennsylvania Environmental Hearing Board and was served on the following on the date listed below:

Electronic Service via the Board

Department of Environmental Protection Office of Chief Counsel 16<sup>th</sup> Flr. Rachel Carson State Office Building 400 Market Street, P.O. Box 8464 Harrisburg, PA 17105-8464 Overnight Mail

Raymond J. Bologna Robinson Power Company, LLC 563 Route 18 P.O. Box 127 Burgettstown, PA 15021-2120

Date: July 14, 2021 <u>s/ Alex Bomstein</u>

Alexander G. Bomstein, Esq.