1. **Appellants’ Information**

   Name: Clean Air Council  
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   Telephone: 215-567-4044

   Name: Environmental Integrity Project  
   Address: 1000 Vermont Ave. NW, Suite 1100  
            Washington, DC 20005  
   Telephone: 202-296-8800

2. **Subject of Appeal:**

   a) **Action for Review:** Issuance of Plan Approval Permit 04-00740A to Shell Chemical Appalachia LLC
   b) **Department and Official Taking Action:** Pennsylvania Department of Environmental Protection, Southwest Regional Office, by Mr. Mark R. Gorog, P.E., Environmental Program Manager.
   c) **Location of the Operation Subject to the Action:** A petrochemical complex in Potter Township, Beaver County, Pennsylvania.
   d) **Receipt of Notice of the Action:** The action was published in the Pennsylvania Bulletin on July 4th, 2015.

3. **Objection to the Department’s Action**

   Clean Air Council (the Council) and the Environmental Integrity Project (EIP) (collectively Appellants), by and through their undersigned counsel, submits this Notice of Appeal of the approval by the Commonwealth of Pennsylvania, Department of Environmental Protection (Department) of the Application for Plan Approval of Shell Chemical Appalachia LLC (Shell) to construct a petrochemical complex in Potter Township, Beaver County, Pennsylvania.

   a. **Parties**
1. The Council, appellant, is a statewide, environmental nonprofit corporation, which maintains a principal office at 135 S. 19th Street, Suite 300, Philadelphia, PA 19103. The Council is incorporated in Pennsylvania. Members of the Council reside in many areas of the Commonwealth, including Beaver County and downwind of Shell’s petrochemical facility. The Council’s members include individuals who have reasonable concerns regarding Shell’s petrochemical facility, including health risks, environmental impacts, and other effects on their quality of life.

2. EIP, appellant, is a national nonprofit organization existing and organized under the laws of the District of Columbia. EIP is dedicated to advocating for more effective enforcement of environmental laws. EIP maintains its principal office at 1000 Vermont Ave. NW, Suite 1100, Washington, DC 20005.

3. Appellee is the Department with a Southwest Regional Office at 400 Waterfront Drive, Pittsburgh, PA 15222.

4. Applicant is Shell, a corporation with a mailing address of 910 Louisiana St. (OSP 14080C) Houston, TX 77002-4916.

   b. Factual Background

5. Shell submitted a Plan Approval Permit Application to the Department for the construction of a petrochemical complex in Potter Township, Beaver County, PA in May 2014.


7. Beaver County is designated as a non-attainment zone for the National Ambient Air Quality Standards for ozone.
8. Volatile organic compounds (VOCs) are a precursor to ozone, a pollutant that has serious adverse impacts on human respiratory systems and causes asthma and other respiratory diseases.

9. Shell estimates that the petrochemical facility will release 536 tons of VOCs per year.

10. Shell’s Plan Approval Permit Application seeks approval from the Department to construct a petrochemical complex to convert ethane into ethylene and subsequently polyethylene.

11. Shell’s Plan Approval Permit Application seeks approval for the construction of three polyethylene units, a cooling tower, a wastewater treatment plant, a low-pressure and high-pressure flare system, and many storage vessels.

12. Shell estimates that the plant will release more than 50 tons of VOCs as fugitives from leaking pumps, valves, compressor seals, and connector flanges at the petrochemical plant each year. Shell’s permit application estimates that 44.9 tons of VOCs will be released by the three polyethylene units within the boundary line of the facility and an additional 5.7 tons of VOCs will be released outside the boundary line.

13. Shell projects additional VOC fugitive emissions from various sources, including the proposed facility’s cooling towers, storage tanks, and wastewater treatment plant.

14. Shell estimates that the plant’s high-pressure flare system will release 227.22 tons of VOCs per year.

15. Shell estimates that the plant’s low-pressure flare system will release 15.51 tons of VOCs per year.

c. Legal and Regulatory Background
16. The Department is the agency of the Commonwealth of Pennsylvania tasked with implementing the Air Pollution Control Act (APCA) and has promulgated regulations in furtherance of that obligation. 35 P.S. § 4002.

17. The Department has accepted delegation from the U.S. Environmental Protection Agency (EPA) to implement the federal Clean Air Act (CAA) and EPA CAA regulations. See 42 U.S.C. § 7410 (1990).

18. The Department discharges its duties to implement and enforce the federal environmental air quality laws and regulations through direct adoptions of EPA regulations or State Implementation Plan (SIP) approval from EPA to do so through state regulations determined to be at least as stringent as their federal counterparts. See 42 U.S.C. § 7410(a)(1) (1990); 35 P.S. § 4002 (1992).

19. Under the federal New Source Review (NSR) program for areas not attaining the NAAQS for ozone, known as Non-Attainment NSR (NA/NSR), sources that emit 50 tons per year or more VOCs are considered major sources and must meet the requirements of the NA/NSR program. 42 U.S.C. § 7602(j) (1990); 25 Pa Code § 127.210(c) (2007).

20. The NA/NSR program requires new facilities to include emission limits that are at least as stringent as the Lowest Achievable Emissions Rate (LAER).

21. LAER is defined as the most stringent emission limitation contained in a state implementation plan or achieved in practice by the type or category of source in question.

22. The NA/NSR program requires facilities to calculate the emissions from proposed new sources of emissions based on the source’s maximum design capacity.
23. Any physical or operational limitation on the capacity of the source to emit a pollutant, provided the limitation or its effect on emissions is federally-enforceable, shall be treated as part of its design

d. Objections

24. In issuing the Permit, the Department failed to comply with the minimum requirements of the Federal Clean Air Act and Pennsylvania’s state implementation plan regarding NSR Permitting in Non-Attainment Areas.

25. Shell’s Permit is legally deficient (i) because it does not include emission limits that comply with LAER and (ii) because the Permit does not include federally enforceable limits for VOC emissions from the flare that can assure compliance with Shell’s Permit Representations.

26. Shell’s Plan Approval does not include requirements to control fugitive emissions that comply with LAER because SIPs and federal consent decrees include more stringent leak detection and repair (LDAR) work practices to minimize emissions from these sources, including fence-line monitoring.

27. The Permit does not include VOC emission limits for the facility’s flares or monitoring requirements to assure that Shell complies with its Permit Application representations.

28. Shell’s permit application calculated the maximum potential to emit for the facility’s High-Pressure Flare System and Low-Pressure Flare System based on gas flow rate projections that are substantially lower than each system’s maximum design capacity.

29. The Permit does not include emission limits or monitoring requirements in the permit to assure that the operational limits on each flare system are federally enforceable.
30. The Department’s response to Appellants’ comments, that throughput limits on the flares are unnecessary because of the facility wide VOC and VOC ERC limit, are unfounded and have no legal basis.

31. Furthermore, the Permit’s VOC and VOC ERC limit are not federally enforceable because the Permit does not include monitoring requirements necessary to determine total VOC emissions from the facility’s flares.

4. **Related Appeals Pending Before the Board**

   Appellants are unaware of any related appeals now pending before the Board.
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 August 3, 2015.

/s/ Augusta Wilson

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CERTIFICATE OF SERVICE

I, Joseph Otis Minott, counsel for the appellant Clean Air Council do hereby certify that on August 3, 2015 I served a true and correct copy of the attached Notice of Appeal on each of the following:

Via electronic filing:

Department of Environmental Protection
Office of Chief Counsel
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Via first class mail, postage pre-paid:

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