

**BEFORE THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF WEST
DEER, ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA**

IN THE MATTER OF:)
)
Conditional Use Application of Hyperion)
Midstream LLC; Deer Creek Interconnect)

FINDINGS, CONCLUSIONS AND DECISION

WHEREAS, on or about March 31, 2023, the Applicant, Hyperion Midstream LLC (“Hyperion” or “Applicant”) filed a Conditional Use Application and supporting documents seeking approval from the Township of West Deer (“Township”) for the development and operation of the Deer Creek Interconnect (“Interconnect”) and associated pipeline project (collectively, the “Interconnect Project”); and

WHEREAS, the Interconnect is proposed to be located on a property located at 4389 Gibsonia Road in the Township, which is identified as Lot and Block No. 1508-P-172, and is owned by Allison Park Contractors (“Property”); and

WHEREAS, the Property is located in the Township’s SU Special Use Zoning District (“SU District”); and

WHEREAS, the associated pipeline is proposed to commence at the to-be-constructed Leto Well Pad located on Oak Road (Allegheny County Block and Lot No. 1668-R-91) in the Township and the pipeline will terminate at the Interconnect; and

WHEREAS, a timely and duly advertised conditional use hearing was commenced before the Township Board of Supervisors (“the Board”) on July 25, 2023 and July 26, 2023, for a total of two (2) nights of hearings which included hours of testimony presented by the Applicant, party-objectors, as well as public comment.

NOW THEREFORE, after careful review of the testimony and evidence presented at the above-referenced public hearings, the West Deer Township Board of Supervisors hereby makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The foregoing recitals are incorporated herein by reference.

Background / Introduction

2. The Township of West Deer, Allegheny County, Commonwealth of Pennsylvania (the "Township") is a home rule municipality with its offices located at 109 East Union Road, Cheswick, Pennsylvania 15024.
3. On or about March 31, 2023, Applicant filed a Conditional Use Application and supporting documents totaling nearly 1,000 pages in length (collectively "the Application") seeking approval from the Township to develop and operate the Interconnect on property owned by Allison Park Contractors located at 4389 Gibsonia Road in the Township's SU Zoning District and identified as Lot and Block No. 1508-P-172. Applicant's Ex. A.
4. The associated pipeline will commence at the to-be-constructed Leto Well Pad located on Oak Road (Allegheny County Block and Lot No. 1668-R-91) in the Township and will terminate at the Interconnect, and the pipeline will traverse the following parcels within the Township: 1508-K-352, 1508-K-302, 1508-L-010, 1667-S-288, 1667-S-223, 1668-J-25, 1218-B-150, and 1668-R-091. Applicant's Ex. A.

5. In connection with its conditional use application, Hyperion also submitted a land development application totaling nearly 500 pages of materials.
6. The Township Planning Commission reviewed the Application at multiple meetings on April 27, 2023, May 25, 2023, and June 22, 2023, and the Planning Commission voted unanimously to recommend approval of the Interconnect Project conditional use and land development applications.

Township Zoning Ordinance Requirements

7. All references to Township ordinances are made in accordance with the Code of the Township of West Deer ("Code") adopted on April 20, 2016, as amended, including the Township Zoning Ordinance, Chapter 210 of the Code ("Zoning").
8. The Zoning Ordinance regulates oil and gas development within the Township, setting forth specific requirements and restrictions. Zoning Ordinance, Section 210-120.A(21).
9. "Oil and Gas Development or Development," is defined to include "the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment associated with the exploration for, production and transportation of oil and gas," Zoning Ordinance, Section 210-6, and is authorized as a conditional use pursuant to the Zoning Ordinance, Section 210-120.A(21)(c)[1].

The Public Hearings on the Application

10. A duly advertised public hearing on the Application was held before the Board commencing on July 25, 2023, which hearing was subsequently continued to and concluded on July 26, 2023.
11. At the commencement of the public hearing on July 25, 2023, a number of Township residents sought Individual Party Objector status.
12. In addition, on July 26, 2023, two Township residents sought party status.
13. The Board granted party status to those individuals who reside within one-half mile of the Interconnect as well as those who own property over which the associated pipeline traverses. Tr. 7/25/23, at 13-14. A list of those individuals granted party status ("Individual Objectors") is attached as **Appendix A**.
14. At the public hearing on July 25, 2023, Tim Resciniti testified that he represented an unincorporated association known as Concerned Residents of West Deer ("CROWD"), whose membership included some of the Individual Objectors. The Board granted party status to CROWD.
15. The following witnesses testified on July 25, 2023:
 - i. For Applicant, Ryan Dailey, direct, cross-examination, and redirect.
16. The following witnesses testified on July 26, 2023:
 - i. For Applicant, Jeremy Burden, direct, cross-examination, redirect, and re-cross examination;
 - ii. For CROWD, Tim Resciniti, direct and cross-examination;
 - iii. Individual Objector, Ryan Koleno, direct;

- iv. Individual Objector, Josh Wiegand, direct;
 - v. Individual Objector, Jack Rearick, direct and cross-examination; and
 - vi. Individual Objector, Neil Crowley, direct and cross-examination.
17. On July 26, 2023, other non-party Township residents/taxpayers made public comments.
18. At the commencement of the hearing on July 25, 2023, and again at the hearing on July 26, 2023, Individual Objector, Ryan Koleno, asserted that there were existing violations of the Zoning Ordinance on the Property related to Allison Park Contractor's operations, and objected to the Board commencing the hearing as a result of the same. Tr. 7/25/23, at 26; Tr. 7/26/23, at 112-114, 115-118; Koleno Exhibits 1-11.
19. The Board overruled Mr. Koleno's objection, finding that Mr. Koleno failed to provide a legal basis that would prevent the hearing to proceed. Tr. 7/25/23, at 35-37, 40; Tr. 7/26/23, at 114-115; Tr. 7/25/23, at 42; Tr. 7/26/23, at 118.
20. During the course of the hearings, the Township, Applicant, CROWD, Individual Objectors, and members of the public introduced, or attempted to introduce, into the record various exhibits. A list of the exhibits is attached as **Appendix B**.

Witnesses and Evidence in Support of the Application

Witness — Ryan Dailey

21. Applicant's first witness was Ryan Dailey, a project manager with Civil & Environmental Consultants and a Certified Floodplain Manager through the Association of State Floodplain Managers. Tr. 7/25/23, at 21, 78.

22. Mr. Dailey provided general testimony as to the proposed location of the Interconnect.
23. Mr. Dailey testified that the Property is located in the SU District and is approximately 11.4 acres in size. Tr. 7/25/23.¹
24. However, the proposed Interconnect pad and short access road are planned to cover slightly less than one-half acre. Tr. 7/25/23, at 46-47.
25. Mr. Dailey testified that the Property owner and Olympus, Hyperion's parent company, have executed a surface use agreement authorizing Hyperion to construct and operate the Interconnect on a portion of the Property. 7/25/23, at 47-48.
26. Mr. Dailey testified that the Property is currently used as a contractor's yard. Hyperion Exhibit A.3.
27. During his testimony, Mr. Dailey reviewed an aerial overview map of the Interconnect Project site which showed the location of the proposed Interconnect pad, several adjacent properties, and the rights-of-way that contain the two existing Eastern Gas interstate transmission pipelines that bisect the Property adjacent to the proposed Interconnect. Tr. 7/25/23, at 45-46; Hyperion Exhibit B.
28. Mr. Dailey testified that while the two existing Eastern Gas pipelines are 30 inches and 20 inches in diameter, the Interconnect would tap into the 30-inch diameter pipeline. Tr. 7/25/23, at 52.

¹ More specifically, the land development plan drawing bearing Mr. Dailey's professional engineer stamp indicates that the Property contains 496,944 square feet, or 11.048 acres. Hyperion Exhibit A.4

29. He further explained that the total limit of disturbance ("LOD") on the Property is approximately 1.5 acres and covers the Interconnect pad, all associated grading, stormwater management controls, erosion and sedimentation ("E&S") Best Management Practices ("BMPs"), the pipeline right-of-way leaving the Property and a small turnaround area for vehicle access to the proposed tap location just west of the Interconnect pad. Tr. 7/25/23, at 47, 51-52.
30. Mr. Dailey testified that the pipeline from the Leto Well Pad will cross Middle Road Extension north of the proposed Interconnect pad, cross through the Ippolito property, and then turn south and come into the northern corner of the Interconnect pad. Tr. 7/25/23, at 47.
31. He explained that the nearest building to the proposed Interconnect pad is a newly constructed building located to the east on the Ippolito property approximately 460 feet from the edge of the Interconnect pad. Tr. 7/25/23, at 48-49; Hyperion Exhibit B.
32. To the southeast, the closest building is approximately 640 feet from the edge of the Interconnect pad. Moving directly south across state Route 910 along Steeplechase Circle, the closest house is over 1,075 feet from the edge of the Interconnect pad. Tr. 7/25/23, at 48-49; Hyperion Exhibit B.
33. To the southwest, directly across State Route 910, the closest building is approximately 690 feet from the edge of the Interconnect pad.

34. Slightly further to the southwest off of Raccoon Way, the nearest residences are approximately 1,125 feet from the edge of the Interconnect pad. Tr. 7/25/23, at 48-49; Hyperion Exhibit B.
35. Directly to the west, the closest building is the Allison Park Contractors' office building approximately 650 from the edge of the Interconnect pad. Tr. 7/25/23, at 48-49; Hyperion Exhibit B.
36. To the northwest, the closest property directly along Crestwood Drive is approximately 770 feet from the edge of the Interconnect pad. Tr. 7/25/23, at 48-49; Hyperion Exhibit B.
37. The nearest residence to the north of the Interconnect pad is over 2,000 feet from the edge of the Interconnect pad. Tr. 7/25/23, at 48-49.
38. Mr. Dailey noted that the property owned by Individual Objector, Ryan Koleno, is located to the northwest, approximately 615 feet from the edge of the Interconnect pad. The existing Eastern Gas right-of-way and the associated interstate transmission lines traverse under the Koleno property. Tr. 7/25/23, at 49.
39. Mr. Dailey testified that the Zoning Ordinance's 650-foot setback requirement is only applicable to deep well sites and does not apply to the Interconnect. Tr. 7/25/23, at 49.
40. Mr. Dailey testified that vehicular access to the Property will utilize the existing Allison Park Contractor's driveway located off of State Route 910. Tr. 7/25/23, at 50-51; Hyperion Exhibit A.4.

41. He explained that the Interconnect pad will be accessed via a 12-foot wide, and approximately 130-foot-long gravel access drive that runs off the existing contractor's yard access and up to the Interconnect pad. Tr. 7/25/23, at 51; Hyperion Exhibit A.4.
42. The Interconnect pad will be approximately 150 feet by 150 feet and will be surfaced with gravel. Tr. 7/25/23, at 51; Hyperion Exhibit A.4.
43. All stormwater runoff from the Interconnect pad and access road will be managed in a managed-release concept BMP located between the Interconnect pad and the access road and would discharge directly into Deer Creek. Tr. 7/25/23, at 51; Hyperion Exhibit A.4.
44. Permanent chain-link fencing will be installed around the perimeter of the Interconnect pad, and a locked gate at the entrance to the site will be installed and first responders will be given access through the locked gate at any time. Tr. 7/25/23, at 52.
45. Lighting fixtures will also be installed on the Interconnect pad in the event that personnel need to be on site after dark. However, there will be no continuous dusk-to-dawn lighting on the site. Tr. 7/25/23, at 52.
46. Mr. Dailey also reviewed a street tree planting plan requested by the Township's Planning Commission during its review of the Interconnect Project. However, he explained that the exact spacing of the trees may change in order to preserve existing trees. Tr. 7/25/23, at 53-54; Hyperion Exhibit C.

47. Mr. Dailey reviewed photographs related to an existing interconnect facility constructed by Hyperion which currently operates in Plum Borough as well as photographs of the existing conditions showing the proposed location of the Interconnect on the Property. Tr. 7/25/23, at 54-55; Hyperion Exhibit A.6.
48. The photographs of the Plum Borough interconnect facility depicted a gravel access road, gravel pad site, and chain-link perimeter fencing with locked entrance gates all of which would be found on the proposed Interconnect site. Tr. 7/25/23, at 54; Hyperion Exhibit A.6.
49. Mr. Dailey reviewed a series of photographs that illustrated the existing conditions on the Property. The photographs showed the existing Eastern Gas transmission right-of-way as seen from the point on the Property where the access road to the interconnect will cross. The photographs also showed the various active operations that Allison Park Contractors currently has on the Property. Tr. 7/25/23, at 54-58; Hyperion Exhibit D.
50. Mr. Dailey provided an overview of the proposed pipeline route from the Leto Well Pad to the proposed Interconnect pad. Tr. 7/25/23, at 58; Hyperion Exhibit E.
51. He explained that Hyperion's standard pipeline right-of-way is a 50-foot permanent right-of-way with an additional 25 feet of temporary construction right-of-way which results in approximately a 75-foot wide LOD throughout the length of the pipeline. Tr. 7/25/23, at 58-59; Hyperion Exhibit E.

52. Mr. Dailey testified that in critical locations, such as at road crossings, there will be an additional workspace area that goes beyond 75 feet. However, the majority of the pipeline route will be the 75-foot construction right-of-way. Tr. 7/25/23, at 59; Hyperion Exhibit E.
53. There are a limited number of large properties that the proposed pipeline traverses across. Tr. 7/25/23, at 59.
54. Mr. Dailey also reviewed a series of photographs that showed images of rights-of-way in which Hyperion has constructed pipelines. Tr. 7/25/23, at 59-61; Hyperion Exhibit F.
55. He testified that traffic that occurs during the construction of the Interconnect pad will travel from the west along State Route 910 and then directly into the Property and back to the Interconnect pad. Tr. 7/25/23, at 61; Hyperion Exhibit A.8.
56. Mr. Dailey explained that during construction of the pipeline, four access points along the haul route are proposed off of Middle Road Extension: an access point on each side of the road where the pipeline crosses Middle Road Extension, an access point from the temporary access road to the north to the pipeline right-of-way, and an additional access point further to the north to the pipeline right-of-way. Tr. 7/25/23, at 61-62; Hyperion Exhibit A.8.
57. The Leto Well Pad access road will also be used to access the pipeline. Tr. 7/25/23, at 61-62; Hyperion Exhibit A.8.

58. Mr. Dailey testified that trucks utilizing this route would travel from the west along State Route 910 and then make a left-hand turn onto Middle Road Extension. Tr. 7/25/23, at 61-62; Hyperion Exhibit A.8.
59. He further explained that the haul route for the Interconnect Project will be the same as the haul route that was approved for the Leto Well Pad, following State Route 910 to Oak Road to the Leto Well Pad access road. Tr. 7/25/23, at 61-62; Hyperion Exhibit A.8.
60. Mr. Dailey indicated that if approved, civil construction of the Interconnect Project is projected to begin in March of 2024 with completion anticipated in May of 2024, while placement of the facilities on the Interconnect pad is anticipated to begin in July of 2024 and will likely run through the end of 2024.
61. A “turn-on line” date, when gas begins to flow through the Interconnect, is anticipated to begin in the spring of 2025. Tr. 7/25/23, at 62-63.
62. Mr. Dailey explained that Hyperion is required to obtain two separate permits from the Pennsylvania Department of Environmental Protection (“DEP”): An ESCGP Permit and a Chapter 105 General Permit. Tr. 7/25/23, at 63-64.
63. While the DEP has already approved Hyperion’s ESCGP Permit for the entire project, the Chapter 105 General Permit is currently under review by the DEP. Tr. 7/25/23, at 63-64.
64. Driveway, temporary driveway, and road crossing permits are required from Allegheny County for Middle Road Extension. Hyperion has not applied for those

permits due to expiration timelines but has communicated with the County that it intends to file for these permits at in the future. Tr. 7/25/23, at 64.

65. Any bonding requirements for Oak Road that were part of the Leto Well Pad approval would continue through the construction of the pipeline. Tr. 7/25/23, at 64.
66. The Board finds Mr. Dailey to be a credible witness.

Witness — Jeremy Burden

67. Applicant's second witness was Jeremy Burden, the Vice-President of Engineering and Construction for Hyperion. Tr. 7/26/23, at 119.
68. Mr. Burden provided general testimony regarding the different components of an interconnect site, as well as an overview of the general layout and the various components of the proposed Interconnect pad. Tr. 7/26/23, at 119-120; Hyperion Exhibit G.
69. Mr. Burden testified that he has over 15 years of experience working in the natural gas industry and has worked for Olympus Energy and Hyperion for four (4) years. Tr. 7/26/23, at 119.
70. Mr. Burden explained that the proposed pipeline from the Leto Well Pad to the proposed Interconnect pad is approximately 1.7 miles in length, the pipeline is 12 inches in diameter, and that gas will enter the Interconnect pad on its inlet side and exit the Interconnect pad into the Eastern Gas transmission line via a pipeline approximately 30 feet in length. Tr. 7/26/23, at 119-120.

71. The Interconnect pad also will include pigging equipment, which is used to perform various cleaning, maintenance, and inspection tasks both on new and existing pipelines. Tr. 7/26/23, at 121; Hyperion Exhibit G.
72. Mr. Burden explained that filtration equipment will collect any free water that accumulates within the pipeline and will safely transport it to storage tanks located on the Interconnect pad. Thereafter, any water collected and accumulated in the storage tanks ("brine water") will be removed from the Interconnect pad by water trucks. Tr. 7/26/23, at 121-122, 167; Hyperion Exhibit G.
73. Trucks will come on-site to remove water once every two months, or approximately six times per year, when the Interconnect is operational. Tr. 7/26/23, at 122, 127.
74. Mr. Burden clarified that the filtration process only removes water present in the pipeline and it does not remove ethane or butane. However, the need to remove water will be minimal because the pipeline will be running dry from a dew-point perspective. Tr. 7/26/23, at 121
75. Mr. Burden testified that regulation and measurement components of the Interconnect will be operated by Eastern Gas in accordance with its specifications. Tr. 7/26/23, at 122-123
76. Eastern Gas is regulated by the Federal Energy Regulatory Commission ("FERC"), the Pipeline Hazardous Material Safety Administration ("PHMSA"), and the Pennsylvania Public Utility Commission ("PUC"). Tr. 7/26/23, at 123-124, 129.

77. Hyperion is regulated by PHMSA and the PUC. Tr. 7/26/23, at 129-130.
78. He further explained that equipment regulates the pressure to match the required pressure to enter the Eastern Gas transmission line and measures the volume of the gas entering the Eastern Gas transmission line. Tr. 7/26/23, at 122-123; Hyperion Exhibit G.
79. He explained that from the metering equipment, gas will go to the tap site located on the Eastern Gas transmission line, which completes all the tap installation work on its own lines and the tap will be operated by Eastern Gas. Tr. 7/26/23, at 123-124, 129; Hyperion Exhibit G.
80. Mr. Burden clarified that downward-facing LED dark-sky compliant lighting will be provided on the perimeter of the Interconnect pad on light poles approximately 22 feet in height, and that the lighting will only be utilized when personnel need to come onto the pad at night and will be turned off when they leave the pad. Tr. 7/26/23, at 124; Hyperion Exhibit G.
81. Mr. Burden testified that he reviewed the height of the various pieces of equipment on the interconnect site and the produced fluids tank is 15 feet in height, the measurement enclosure is approximately 12 feet in height, the filter separator is approximately 10 feet in height, and the Supervisory Control and Data Acquisition System ("SCADA") is approximately eight (8) feet in height. Tr. 7/26/23, at 124; Hyperion Exhibit G.

82. While Eastern Gas requires all enclosures to be generally metal clad, pursuant to the Planning Commission's request to include additional cladding, Hyperion is proposing to use Dryvit covering. Tr. 7/26/23, at 124-125; Hyperion Exhibit H.
83. Mr. Burden also provided an overview of the SCADA system, which is an unmanned system that enables Hyperion to remotely monitor various temperatures, levels, and flows throughout the Interconnect and allows Hyperion to confirm that it is operating in accordance with its design. The system also allows Hyperion to identify if there are any abnormal operations that would trigger a response either remotely or by sending an operator to the Interconnect. Tr. 7/26/23, at 125-126, 131.
84. Mr. Burden confirmed that if there is a failure or an emergency, Hyperion can remotely shut down the Interconnect to isolate any gas coming into the system, including the ability to control the Leto Well Pad to isolate gas during any event. He explained that there is also a valve in place to allow Eastern Gas to isolate its system from the Hyperion system. Tr. 7/26/23, at 130.
85. He further explained that traffic to the Interconnect pad during the construction phase of the project consists of 10-15 trucks per day, mostly passenger vehicles. Larger equipment is brought on site during the civil and mechanical phases of construction and consists of a few excavators (approximately two trips in and two trips out during the duration), in addition to the equipment being delivered. Overall traffic during construction would be 10-15 larger vehicles and 10-15 passenger-type vehicles per day. Tr. 7/26/23, at 126.

86. Mr. Burden testified that an operator will visit the Interconnect pad daily, and a water truck will come on-site approximately once every two months. Tr. 7/26/23, at 126-127.
87. With regard to traffic, Mr. Burden explained that traffic during pipeline construction will likely consist of 10-15 passenger-type vehicles per day. Additionally, during the duration of construction, an aggregate of five to 10 loads of equipment, along with approximately 20-22 trucks hauling pipe, are expected. Tr. 7/23/23, at 127.
88. Mr. Burden reviewed the location of the various components of the Logans Ferry interconnect site in Plum Borough and where those components would be situated on the proposed Interconnect here. This included locations of the pig receiver, filtration vessel, fluids tank, regulation skid, meter enclosure, and SCADA system building that would be clad in Dryvit. Tr. 7/26/23, at 127-128; Hyperion Exhibit A.6.
89. He explained that civil construction of the Interconnect Project is projected to begin in spring of 2024, the mechanical construction phase is projected to run from July 2024 through December 2024, with general completion expected in early 2025, and the Interconnect is projected to be operational in early 2025 to coincide with the timing of development of the Leto Well Pad. Tr. 7/26/23, at 129.
90. Mr. Burden clarified that FERC, PHMSA, and the PUC govern the design and operation of facilities, as well as the documentation regarding them. Each entity has full audit rights to review all documents in order to assure that operators are

in compliance, which includes reviewing company policies and instruction procedures for welding, coding, and corrosion control, as well as field audits in which they can review operating, maintenance, and inspection records. Tr. 7/26/23, at 129-130.

91. Mr. Burden confirmed that both PHMSA and the PUC have audited Hyperion's records and undertaken field audits, and both agencies found Hyperion to be in full compliance. Tr. 7/26/23, at 130.
92. Mr. Burden also explained that Olympus's (Hyperion's) "pigging" practices are consistent with other upstream operators in southwestern Pennsylvania. Tr. 7/26/23, at 150.
93. Mr. Burden provided a brief explanation of Potential Impact Ratings ("PIR"), a PHMSA standard that relates to a guide for the design and safety of pipelines, and clarified that the PIR does not limit where a pipeline can be located but rather establishes the safety standards and construction and design standards that must be met. Tr. 7/26/23, at 150-151.
94. Mr. Burden explained that there are four classes of pipelines under PHMSA's rules, which are largely based on the density of homes within a certain distance away from a pipeline. Between a Class 1 or Class 4 pipeline, the Class 4 pipeline is the most rigorous standard. Tr. 7/26/23, at 151.
95. Mr. Burden testified that while Hyperion could have designed to Class 2 pipeline standards based on class location review, it chose to go beyond PHMSA's requirements and designed a Class 3 pipeline. Tr. 7/26/23, at 151.

96. The Board finds Mr. Burden to be a credible witness.

CROWD's and Individual Party Objectors' Testimony and Evidence in Opposition of the Interconnect Site

Witness — Tim Resciniti

97. On behalf of CROWD, Tim Resciniti presented testimony regarding the total lot coverage of the property. Specifically, Mr. Resciniti argued that with the addition of the Interconnect pad, the total lot coverage on the Property will exceed 40%, which is the maximum permitted lot coverage in the SU District pursuant to the Township Zoning Ordinance. Zoning Ordinance, Nonresidential Dimensional Table.
98. Mr. Resciniti reached this conclusion by using the acreage of the Property listed on the Allegheny County Real Estate Office Assessment Office website (10.1 acres), and hand-traced the portion of the Property he believed qualified as "lot coverage" under the Township Zoning Ordinance on an aerial photo from the County GIS Viewer due to Allison Park Contractor's existing operations and Hyperion's proposed use. Based on his calculations, the lot coverage would be 4.17 acres, which equates to 41.29% of the area of the Property. Tr. 7/26/23, at 168-171, CROWD Exhibit 3.
99. On behalf of CROWD, Mr. Resciniti also asserted that Hyperion did not comply with the Zoning Ordinance in the following respects:
- a. The Property's status as a nonconforming use, the Property's compliance with the Township Code, and the fact that an additional use is being proposed on the Property. Tr. 7/25/23, at 26-35; Koleno Exhibits 1-11;

- b. That the Interconnect does not comply with setback requirements;
- c. The Application did not contain a copy of Hyperion's 5-year compliance history with the DEP. Tr. 7/25/23, at 74; CROWD Exhibit 2;
- d. Outside fluid tanks containing brine will not be surrounded by a dike. Tr. 7/26/23, at 124,167;
- e. Applicant did not apply for a floodplain permit at the time it filed its Application. Tr. 7/25/23, at 76-77; and
- f. Applicant did not inventory the roads and provide video and photo documentation to the Township.

Cases of Individual Objectors

Witness — Mr. Ryan Koleno

- 100. Ryan Koleno is an Individual Objector who resides at 3998 Crestwood Drive, Gibsonia, PA, 15044.
- 101. Mr. Koleno testified regarding his general opinions and concerns related to the current usage of the Property and the location and safety of the proposed pipeline. Tr. 7/26/23, at 178-179.

Witness — Joshua Wiegand

- 102. Joshua Wiegand is an Individual Objector who resides at 165 Squirrel Hollow Road, Gibsonia, PA, 15044. Mr. Wiegand expressed his opinion regarding the access to the proposed Interconnect and his concerns about the proximity of the proposed pipeline to existing houses on Crestwood Drive. Tr. 7/26/23, at 188-189.

Witness — Jack Rearick

103. Jack Rearick is an Individual Objector who resides at 37 Corbriwood Lane, Gibsonia, PA, 15044. Mr. Rearick testified regarding his general opinions and concerns related to the overall safety of pipelines in Pennsylvania and the United States. While Mr. Rearick presented data that referred to pipeline “incidents” for all of the United States and Pennsylvania, he did not know what PHMSA characterized as an incident and was not sure if these “incidents” included retail downstream pipelines that serve residents and businesses. Tr. 7/26/23, at 189-194; Rearick Exhibits 1-2.

Witness — Neil Crowley

104. Neil Crowley is an Individual Objector who resides at 4032 Crestwood Drive, Gibsonia, PA, 15044. Mr. Crowley offered charts purporting to summarize data from the DEP website regarding notices of violations and penalties attributed to Olympus.
105. Hyperion objected to their admission and testimony related to the same and the Board partially sustained that objection, ruling that it would only hear evidence of actual violations that led to fines related to interconnects and pipelines. Tr. 7/26/23, at 186; Crowley Exhibits 2-3, 4-5.
106. Mr. Crowley subsequently presented an exhibit reflecting that Olympus paid a civil penalty of \$74,750 related to its Apollo B to Dominion pipeline and Plutus to Apollo B pipeline. Crowley Exhibit 3.

107. Mr. Crowley admitted that he did not have any first-hand knowledge of the circumstances regarding what occurred in the field related to these pipelines. Tr. 7/26/23, at 213-215.

Public Commenters

108. At the July 26, 2023 public hearing, Township residents were permitted to provide public comment. Tr. 7/26/23, at 219-230.
109. During the public comment period, six residents indicated that they were opposed to the Application. Tr. 7/26/23, at 219-230.

CONCLUSIONS OF LAW

110. The Subject Property is located in the SU Zoning District where, according to Section 210-120.A(21)(c)[1] of the Zoning Ordinance and Township, a “Oil and Gas Development or Development” is permitted as a conditional use. FOF, ¶¶ 3, 9.
111. A conditional use is a permitted use to which an applicant is entitled if the applicant demonstrates compliance with the specific, objective requirements contained in the zoning ordinance. *McGinty v. Zoning Bd. of Adj. of the City of Pittsburgh*, 717 A.2d 34 (Pa. Commw. Ct. 1998).
112. The respective burdens of an applicant and any potential objector to a conditional use application were delineated by the Pennsylvania Commonwealth Court in *Bray v. Zoning Board of Adjustment*. *Bray* articulated three types of standards applicable to a conditional use case. Those standards, and the applicable burdens are as follows:

- a. Specific requirements, 'e.g., categorical definition of the [conditional use] as a use type or other matter, and objective standards governing such matter as a special exception and generally: The applicant has both the duty [of presenting evidence] and the burden [of proof].'
 - b. General detrimental effect, 'e.g., to the health, safety and welfare of the neighborhood: Objectors have both the duty and burden.'
 - c. General policy concern, 'e.g., as to harmony with the spirit, intent or purpose of the ordinance: Objectors have both the duty and the burden.' 410 A.2d 909, 913 (Pa. Commw. Ct. 1980).
113. Initially, the applicant for a conditional use has both the persuasion burden and the initial evidence presentation duty to show that the proposal complies with the "terms of the ordinance" which expressly govern such a grant. *Bray*, 410 A.2d at 910.
114. Once the applicant for a conditional use meets its burden of persuading a governing body that its proposed use satisfies the ordinance's specific requirements, it is presumed that the local legislature has already considered that such use satisfies local concerns for the general health, safety and welfare and that such use comports with the intent of the zoning ordinance. *Szewczyk v. Zoning Bd. of Adjustment*, 654 A.2d 218, 221-22 (Pa. Commw. Ct. 1995).
115. The burden then shifts to the objectors to rebut the presumption and persuade the governing body that the proposed use will have a generally detrimental effect. *Broussard v. Zoning Bd. of Adjustment*, 831 A.2d 764, 772 (Pa. Commw. Ct. 2003).
116. It is the duty of the Board in the exercise of its discretionary power to determine whether a party has met its burden of proof. *Pennsy. Supply, Inc. v. Zoning Hearing Bd.*, 987 A.2d 1243, 1250-1251 (Pa. Commw. Ct. 2009). Determinations as to the

credibility of witnesses and the weight to be given to the evidence are matters left solely to the Board in the performance of its fact-finding role. *Id.*

117. A local governing body is entitled to considerable deference in interpreting its zoning ordinance. *Aldridge v. Jackson Twp.*, 983 A.2d 247 (Pa. Commw. Ct. 2009).
118. The proposed Interconnect Project falls within the definition of “oil and gas development or development”, which is defined in part in Section 210-6 of the Zoning Ordinance to include “the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment associated with the exploration for, production and transportation of oil and gas,” Zoning Ordinance, Section 210-6.
119. Pipelines are expressly mentioned in the definition, and an interconnect such as that proposed here is equipment associated with pipelines and is equipment associated with the transportation of natural gas. FOF, ¶ 9.
120. Oil and gas development is authorized as a conditional use pursuant to Zoning Ordinance, Section 210-120.A(21)(c)[1]. FOF, ¶ 9.
121. “Gas and oil production” is also authorized as a conditional use in all zoning districts. Zoning Ordinance, Table of Authorized Land Uses.

Lot Coverage

122. Mr. Resciniti on behalf of CROWD argued that the Interconnect Project does not meet the maximum lot coverage requirements of the Zoning Ordinance. FOF, ¶¶ 97-98.

123. The Nonresidential Dimensional Table in the Zoning Ordinance provides that the maximum lot coverage in the SU District is 40%.
124. The Zoning Ordinance defines “lot coverage” as “[t]hat percentage of the lot covered by principal and accessory structures and/or buildings.”
125. CROWD argued that the Property consists of 10.1 acres and the aggregate “lot coverage area” for both Allison Park Contracting and Hyperion is 4.17 acres, resulting in lot coverage of 41.29%. FOF, ¶ 98.
126. However, the Board finds that the actual size of the Property is 496,944 square feet, or 11.048 acres. FOF, ¶ 23, fn. 1.
127. Thus, even if the Board accepts the balance of CROWD’s analysis, which the Board does not, the actual lot coverage would be 37.74%, which complies with the Zoning Ordinance.
128. Moreover, the Board does not find CROWD’s methodology for calculating the area of the lot coverage to be reliable because Mr. Resciniti’s testimony rests on the premise that not only the footprint of buildings, equipment, and stored materials should be included, but also any open areas adjacent to these features, which Mr. Resciniti characterizes as “improved.” Tr. 7/26/23, at 173-174.
129. To this end, CROWD relies on the Zoning Ordinance definition of “structure,” which is defined as “[a]ny man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. Structures include, but are not limited to, buildings, sheds, signs and landfills.” Zoning Ordinance, Section 210-6.

130. Based upon this rationale, it seems that it is CROWD's position that any area of land that has been disturbed in any fashion qualifies as a "structure."
131. However, the Board concludes that the proper calculation of the term lot coverage should be limited to areas where there are buildings, equipment and, arguably, stored materials.
132. While no party has provided such a calculation based on these features, a cursory review of CROWD Exhibit 3 suggests that lot coverage would be substantially less than 10%.
133. The Board is mindful of the long-recognized principle of Pennsylvania law that when interpreting land use ordinances, any ambiguity or conflict is to be resolved in favor of the property owner. *Heck v. Zoning Hearing Bd.*, 397 A.2d 15, 16 (Pa. Commw. Ct. 1979) (citing *Desousa v. Zoning Hearing Bd.*, 339 A.2d 650 (Pa. Commw. Ct. 1975)); R. Ryan, *Pennsylvania Zoning Law and Practice*, §§ 4.2.4 and 4.2.5 (1970); *Pennsylvania Municipalities Planning Code*, Section 603.1, 53 P.S. § 10603.1 ("In interpreting the language of a zoning ordinance to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.").
134. Additionally, "[u]ncertainties in the interpretation of an ordinance are to be resolved in favor of a construction which renders the ordinance constitutional." *Upper Salford Twp. v. Collins*, 669 A.2d 335, 336 (Pa. 1995); *see also Ficco v. Bd. of*

Sup'rs of Hempfield Twp., 677 A.2d 897, 900–01 (Pa. Commw. Ct. 1996) (“Where an ordinance is reasonably susceptible of two conflicting constructions, a court should adopt that interpretation which would uphold the validity of the ordinance.”).

135. While the Board is of the conclusion that the definition of “lot coverage” unambiguously does not include open areas, to the extent there is any ambiguity in that term, it must be construed against the interpretation being advocated by CROWD.

Setbacks

136. The Interconnect is proposed to be located in the SU District and is subject to the minimum yard requirements for that District—50 feet for front, rear and side yards. Zoning Ordinance, Nonresidential Dimensional Table.
137. The drawings submitted by Hyperion establish that these setback requirements are met. Hyperion Exhibit G.
138. There are no additional setback requirements imposed upon interconnect facilities. FOF, ¶ 39.
139. Although the Zoning Ordinance requires that a “deep well site” be placed at least 650 feet from any preexisting building located off the property where the deep well site is sited,” the proposed Interconnect does not fall within the definition of that term. Zoning Ordinance, 210-120.A(21)(a)[1]. FOF, ¶ 39.
140. Section 210-6 of the Zoning Ordinance defines “deep well site” as follows:

The areas occupied by the facilities, structures, materials and equipment, whether temporary or permanent, necessary for or incidental to the preparation, construction, drilling, fracturing, production or operation of a deep well. This definition also includes any exploratory wells. If multiple areas are used, then the total combined areas shall be considered the deep well site area.

141. A "deep well" is defined as:

An unconventional well, or any pierced or bored hole drilled or being drilled into or below the Marcellus Shale rock formation for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal.

142. The Zoning Ordinance definitions of "deep well site" and "deep well" unambiguously do **not** include a facility such as the Interconnect.

143. The Board finds that the Interconnect is a completely separate and distinct facility, serving a completely different purpose, much smaller in size, not involving drilling or hydraulic fracturing, and passive in nature.

Floodplain Permit

144. Section 125-3 of Chapter 125 of the Code ("Floodplain Management"), requires that before any construction or development in the Township is undertaken, a permit must be obtained from the floodplain administrator.
145. The Board agrees that it would have been premature for Hyperion to apply for a floodplain permit before it received conditional use approval.

146. The requirement of Section 125-3 is a typical post-conditional use approval requirement, compliance with which cannot be a basis for denial of a conditional use.

Other Alleged Zoning and Enforcement Issues

147. Party Objectors argue that the Property's status is not a recorded nonconforming use, that there are existing code violations on the property, and that an additional use is being proposed on the Property. Tr. 7/25/23, at 26-35. FOF, ¶¶ 18, 99, 101.
148. The evidence relied upon by the Party Objectors to support these arguments are based upon the Township's responses to Mr. Koleno's July 18 and July 21, 2023 Right-to-Know Law ("RTKL") Requests. *See* Koleno Exhibits 1-11. FOF, ¶ 18.
149. However, under the RTKL, the Township is only required to provide documents in its possession, custody, and control that are responsive to a particular request. 65 P.S. § 67.901. The RTKL does not require the Township to conduct any zoning analysis or to respond to questions from requesters.
150. Accordingly, the documents entered into evidence by Mr. Koleno do not necessarily accurately depict the existing conditions on the Property in terms of the nonconforming use and existence of code violations on the Property. Moreover, even if there are existing unresolved code violations related to the contractor's yard operating at the Property, the Party Objector failed to provide any legal authority for the Township to deny or otherwise refuse to process the conditional use application filed by Hyperion.

151. The Party Objectors assert that the Interconnect cannot be located on the same parcel as the existing contractor's yard. However, even assuming for the sake of argument that the Board agreed that there would be two principal uses on the Property, the Township Zoning Ordinance does not explicitly prohibit two principal uses on the same parcel.
152. CROWD and the Individual Party Objectors had the presentation burden with regard to all general policy concerns and general detrimental effects.
153. Objectors seeking to defeat the conditional use must show that the impact of the proposed use "will be greater than would normally be expected [for that use] and would pose a substantial threat to the health, safety and welfare of the community."
154. Objectors must provide "'evidence that there is more than a mere speculation of harm.'" *Szewczyk v. Zoning Bd. of Adjustment*, 654 A.2d 218, 224 (Pa. Commw. Ct. 1995), *citing Abbey v. Zoning Hearing Bd.*, 559 A.2d 107, 110 (Pa. Commw. Ct. 1989) (emphasis in original).
155. In fact, they must come forward with evidence establishing with a high degree of probability that the use in question will have an impact on the community beyond that normally associated with that use. *In re Cutler Grp., Inc.*, 880 A.2d 39, 43 (Pa. Commw. Ct. 2005) (*quoting* Robert S. Ryan, 1 Pennsylvania Zoning Law and Practice §5.2.6 (2003)) ("Moreover, the degree of harm required to justify denial of the conditional use must be greater than that which normally flows from the proposed use.")

156. The requirement that objectors bear the burden of evidence presentation as to general ordinance criteria is true regardless of any contrary terms contained in a zoning ordinance.
157. A conditional use applicant never has the initial presentation burden with regard to the general, subjective criteria. *Williams Holding Grp., LLC v. Bd. of Supervisors of W. Hanover Twp.*, 101 A.3d 1202, 1212-13 (Pa. Commw. Ct. 2014).
158. The Board has, pursuant to its legislative authority, designated oil and gas development or development as a permitted conditional use in the SU Zoning District.
159. It is well-established Pennsylvania law that a zoning ordinance's designation of a use as a conditional use creates a legislative presumption that the particular use is appropriate in the zoning district in question and consistent with the public health, safety and welfare. *See e.g., MarkWest Liberty Midstream and Resources, LLC v. Cecil Township Zoning Hearing Bd.*, 184 3d 1048 (Pa. Commw. Ct. 2018).
160. Because the Board, by ordinance, has authorized "Oil and Gas Development or Development" as a conditional use in the SU Zoning District, the Township has already decided that oil and gas development at the proposed Interconnect site is consistent with the general public health, welfare, and safety.
161. Furthermore, because Hyperion has satisfied its burdens of presentation and proof with respect to the specific objective criteria of the Zoning Ordinance, the presumption that the use is consistent with the health, safety, and welfare of the community applies and Applicant was not required to present evidence with

respect to the same. *See MarkWest*, 184 A.3d at 1059; *Allegheny Tower Assoc. v. City of Scranton Zoning Hearing Bd.*, 152 A.3d 1118, 1123-24 (Pa. Commw. Ct. 2017); *Greaton Properties v. Lower Merion Twp.*, 796 A.2d 1038, 1045-46 (Pa. Commw. Ct. 2002).


162. The Board does not believe that CROWD and the Individual Objectors have met their burden, as it was not enough for CROWD and the Individual Objectors to express vague “concerns” about alleged impacts of Applicant’s proposed interconnect development, nor was it enough for them to present evidence of alleged adverse impacts from oil and gas development generally.
163. Instead, they were required to present specific evidence that Applicant’s proposed interconnect development would create adverse impacts beyond those normally associated with oil and gas development.
164. Virtually all of the general health and safety issues CROWD and the Individual Objectors raised were aimed at alleged impacts of the oil and gas industry generally, not specific to any unusual or abnormal impacts at the proposed interconnect site or involved broader environmental or operational impacts within the jurisdiction of DEP and other regulatory agencies.
165. While the Board acknowledges that these environmental issues are certainly important, they are not within the jurisdiction of the Township and this Board.
166. While the Board is sympathetic to the understandable concerns residents have about a new use, CROWD and the Individual Objectors failed to meet their burden.

167. Under Sections 603(c)(2) and 913.2(a) of the Municipalities Planning Code, the governing body has the statutory authority to attach “reasonable conditions and safeguards . . . as it may deem necessary to implement the purposes of [the Municipalities Planning Code] and the zoning ordinance” See 53 P.S. §§ 10603(c)(2); 10913.
168. Accordingly, it is the decision of the Board to grant approval of Applicant’s Conditional Use Application subject to reasonable conditions.

DECISION


For the reasons set forth above, Hyperion Midstream LLC’s Conditional Use Application for the Deer Creek Interconnect is hereby GRANTED subject to the conditions set forth in Appendix C, which conditions are incorporated herein by reference.

ATTEST:



Daniel J. Mator, Jr.

Township of West Deer

By: 

Beverly Jordan
Chairperson of Board of Supervisors

I, Daniel J. Mator, Jr., as Township Manager for the Township of West Deer, County of Allegheny, Commonwealth of Pennsylvania, certify that this document constitutes an official communication by the Township of West Deer and accurately reflects its decision in this matter.



Daniel J. Mator, Jr.
Township Manager

Appendix A
Individual Objectors

1. Concerned Residents of West Deer (CROWD) represented by Timothy and Jo Resciniti
2. Leonard Sarver
3. Ryan Koleno
4. Katie Koleno
5. Neil Crowley
6. Delores Santacroce
7. Roth Stump
8. Roberta King
9. Marcia Brissett
10. Jack Rearick
11. Joshua Wiegand
12. Joe Sasin
13. Mark Murrin

Appendix B
List of Exhibits

1. Applicant Exhibit A- Conditional Use Application
2. Applicant Exhibit B1- Deer Creek Interconnect Overview Map
3. Applicant Exhibit B2- Deer Creek Interconnect Overview Map (Different View)
4. Applicant Exhibit C - Deer Creek Interconnect and Associated Pipeline Landscape Plan
5. Applicant Exhibit D- Photos of Site
6. Applicant Exhibit E - Leto to Deer Creek Pipeline and Interconnect Site Overview Map
7. Applicant Exhibit F- Other Pipeline Vegetation Photos
8. Applicant Exhibit G- Deer Creek Interconnect Mechanical Conceptual Site Layout
9. Applicant Exhibit H- Modulite Prefabricated Panel Systems Packet
10. Applicant Exhibit J- Deer Creek Interconnect Standing Map
11. CROWD Exhibit 1- List of CROWD Members
12. CROWD Exhibit 2- ESCGP Permit Information
13. CROWD Exhibit 3- Lot Coverage Exhibits
14. CROWD Exhibit 4- Zoning Ordinance No. 394 (Adopted August 2, 2012)
15. CROWD Exhibit 5- Table of Authorized Land Uses
16. Crowley Exhibit 2- Chart
17. Crowley Exhibit 3- DEP Violations and Fines Paid by Hyperion
18. Crowley Exhibit 4- Chart of DEP Violations
19. Crowley Exhibit 5- Powerpoint Slides
20. Koleno Exhibit 1- 7/18/23 Koleno RTK Request
21. Koleno Exhibit 2- 7/21/23 Koleno RTK Request
22. Koleno Exhibit 3- 7/18/23 to 7/21/23 E-Mail Chain
23. Koleno Exhibit 4- 7/21/23 E-Mail Chain
24. Koleno Exhibit 5- 7/24/23 E-Mail Chain
25. Koleno Exhibit 6- Copy of Occupancy Permit 12-183 for Allison Park Contractors Property

26. Koleno Exhibit 7- GIS Photos of Allison Park Contractors Property
27. Koleno Exhibit 8- Proof of Source/Purchase- GIS Photos of Allison Park Contractors Property
28. Koleno Exhibit 9- Koleno Statement in Opposition
29. Koleno Exhibit 10- Response to 7/18/23 RTK Request
30. Koleno Exhibit 11- Response to 7/21/23 RTK Request
31. Rearick Exhibit 1 - US News Article
32. Rearick Exhibit 2 - PHMSA Pipeline Incidents
33. Township Exhibit A-Official Notice of the Township of West Deer
34. Township Exhibit B- Photo of Notice posted
35. Township Exhibit C- West Deer Township Planning Commission Meeting Minutes for June 22, 2023

Appendix C
Conditions of Approval

1. Applicant shall have obtained from the appropriate Commonwealth, and if applicable, Federal regulatory agencies or authorities all permits required to be issued in accordance with applicable laws and regulations for the proposed use, and copies of said permits shall be provided to the Township prior to any activity taking place authorized by those permits.
2. Applicant shall at all times comply with all applicable laws and regulations of the Commonwealth of Pennsylvania and the United States of America as they relate to activities conducted by the Applicant within the Township. If the Applicant receives notice of any notice of violation from any State or Federal agency of any such law or regulation causing a public safety or serious environmental hazard in the Township, it shall give the Township notice as soon as practical, but in no event later than 24-hours of the Applicant receiving notice.
3. Applicant shall comply with Chapter 210-Section 120.A(21) — Gas and Oil Production contained in the Township Code of Ordinances.
5. Applicant shall provide to the Township and first responders its Preparedness, Prevention and Contingency Plan and any updates thereto.
6. Prior to any construction activity, the Applicant shall meet with the Township emergency management individuals designated by the Township Board of Supervisors to discuss or provide information regarding any proposed emergency responses to the Preparedness, Prevention and Contingency Plan.
7. Additionally, prior to operation of the facility, the Applicant shall provide training to the Township's emergency responders, at Applicant's expense, which will enable them to respond safely and effectively in the event of an emergency at the site.
8. Applicant shall provide adequate ingress/egress to the site for emergency vehicles subject to the approval of the Township's Emergency Management Coordinator.
9. Applicant shall comply with the idling limitations contained in the Pennsylvania Diesel-Powered Motor Vehicle Idling Act, Act 124 of 2008.
10. There shall be no activities associated with the proposed use that will result in malodorous gas or matter discernible at any point on or beyond the property lines of the site.

11. Applicant will provide adequate and obvious truck route signage, including "No Interconnect Project traffic on unpermitted roads" signage, where necessary, to ensure the approved truck routes are utilized. Additionally, Applicant shall notify all contractors, subcontractors, suppliers and vendors of the approved truck route.
12. Applicant shall continue to review the efficiency and safety of all traffic plans and routes and will meet with the Township representatives to address issues regarding said plan or route, including traffic flow and safety.
13. Applicant agrees to restrict the operation of vehicles exceeding a gross weight of 10,000 pounds ("Heavy Truck Traffic") on Oak Road and Middle Road Extension during those periods of time in which the Deer Lakes School District schedules morning and afternoon school bus drop-off and pick-up on those roads. Applicant also shall provide a contact to each school's transportation office.
14. Oak Road and Middle Road Extension shall be improved and maintained as required by PennDOT and Allegheny County, respectively.
16. Applicant shall inform its contractors and subcontractors that jake brake or engine brake usage on trucks is to be restricted.
17. Applicant shall undertake reasonable efforts to prevent water, sediment, or debris from being carried onto any public street. If upon Township inspection of public roads it is determined that mud is causing a public safety issue the roadway shall be cleared, cleaned and/or swept immediately. If through time, originally installed surfacing and/or implemented measures result in water, sediment or debris being carried onto any public street, said surfacing and measures shall be reevaluated and reconstructed to achieve the aforementioned results.
18. Applicant shall provide a schedule to the Township identifying anticipated dates for site preparation, anticipated drilling activity, anticipated completion, and anticipated stimulation or fracturing work to begin. The Township recognizes that said dates may be dependent upon variables such as weather, availability of equipment, leasing, permitting, production and the like. However, such scheduling shall be updated and provided to the Township on a periodic basis (no less than monthly) as requested by the Township.
19. There shall be no activities associated with the proposed use that will emit electrical disturbances adversely affecting the operation of radio or other equipment not located at the subject property.
20. All earth moving activities and stormwater management on the subject property shall be subject to the terms and conditions of a DEP approved erosion and sedimentation control plan and all related applicable permits. A copy of said plan and permit are to be

provided to the Township prior to such work is to begin and shall be on file at the construction site.

21. Applicant shall provide the Township with contact information which will allow representatives of the Applicant to be contacted 24 hours a day, seven days a week to address an emergency as well as other issues and complaints. Said contact information shall also be clearly posted at the entrance to the site.
22. If a reasonable complaint is registered with the Township, the Applicant will respond to said complaint within 24 hours of notification and take whatever reasonable means necessary to alleviate and cure said complaint, should it be found to be with merit.
23. Applicant shall comply with all State and Federal regulations regarding the handling of any radioactive materials.
24. Applicant shall maintain a current list and Safety Data Sheet (SDS) for all chemicals used on the Property. The Applicant shall also provide SDS sheets to first responders upon request.
25. Applicant agrees to hold the Township harmless from any and all liability arising out of actions or non-actions committed by the Applicant, its representatives, contractors or subcontractors in connection with the construction or operation of wells at the proposed site, excluding any such liability arising out of the negligence or intentional acts of the Township, its employees, officials, contractors or agents.
26. Applicant shall comply with all Township ordinances related to construction activity, and activity for construction of the proposed Interconnect Project. Hours of operation for construction shall be limited to sunrise to sunset.
27. Applicant shall notify contractors and subcontractors that they will be responsible for and shall remedy any damages they may cause to public or private properties within the Township. In the event the Township notifies the Applicant of a damage claim, Applicant will cooperate with the Township in identifying the potentially responsible contractor or subcontractor.
28. Applicant acknowledges that if it fails to meet and maintain any condition of this approval, the Township may enforce the same in accordance with applicable provisions of the Pennsylvania Municipalities Planning Code.
29. Prior to the commencement of construction of the Interconnect Project, the Applicant shall make a traffic impact fee payment to the Township based on the final calculation of peak hour trips, as approved by the Township traffic engineer, times the applicable impact fee rate forth in the Township's traffic impact fee ordinance.

30. To the extent the Interconnect Project encroaches into any floodplain, as defined by Chapter 125 of the West Deer Township Code of Ordinances, Floodplain Management, the Applicant shall apply for and obtain a permit from the Township Floodplain Administrator prior to the commencement of construction.