



## MEMO

**TO** Permit Application File  
and  
Samuel Faith  
District Mining Manager  
California Bureau of District Mining Operations

**FROM** Wendy T. Noe, P.G. *WTN*//ELECTRONICALLY SIGNED// on 1/23/2025  
Licensed Professional Geologist

**THRU** Troy A. Williams, P.E. *TAW*//ELECTRONICALLY SIGNED// on 1/23/2025  
Environmental Group Manager  
and  
Gregory A. Ayres, P.G. *GAA*//ELECTRONICALLY SIGNED// on 1/23/2025  
Professional Geologist Manger

**DATE** January 23, 2025

**RE** Public Hearing - held August 28, 2024  
Renewal Application submitted by LCT Energy, LP  
Permit NPDES No. PA0236241  
Rustic Ridge #1

### MESSAGE:

A public hearing (PH) was held at St. Raymond of the Mountain Parish regarding the renewal of the National Pollution Discharge Elimination System (NPDES) Permit for the Rustic Ridge #1 on August 28, 2024. The hearing started at 6:15 PM and concluded at 7:50 PM. The PH was held in response to requests received by the Pennsylvania Department of Environmental Protection (Department) from Mountain Watershed Association (MWA), as well as several community members. Fifty-two (52) members of the public, including a reporter from the Daily Courier and Westmoreland County Commissioner, Ted Kopas, attended the PH. The Department received written testimony and questions that have been incorporated into this response letter as part of the PH and separate correspondence.

The NPDES renewal application for the Rustic Ridge #1 mine was submitted (along with the Coal Mining Activity Permit) to the Department by LCT Energy, LP (LCT or Operator) and accepted for review on August 25, 2021. The application proposes to renew the current NPDES permit. The associated coal mining activity permit renewal includes 67.7 acres of surface activity permit area, 2,844.9 acres of subsurface area, and 2,739.0 acres of subsidence control plan permit area. The Department has completed the technical review of the renewal application and is recommending the issuance of the renewed permit.

Multiple issues and concerns were raised during the PH and during the subsequent written comment period on the renewal application. The expressed concerns may include subject areas and items not regulated by the Department.

The Department recognizes the importance of all the expressed concerns and will attempt to address the concerns to the best of its ability. However, other Department or state agencies and/or local municipalities may need to be contacted concerning questions outside the scope of this NPDES permit application review.

The following Department representatives from the California District Mining Office (CalDMO) and the Southwest Regional Office (SWRO) attended the PH:

**California District Mining Office – CalDMO**

Sam Faith, District Mining Manager

Troy Williams, Environmental Group Manager

Gregory Ayres, Professional Geologist Manager

Wendy Noe, Licensed Professional Geologist

**Southwest Regional Office - SWRO**

Lauren Camarda, Regional Communications Manager

Emily Green, Southwest Region Environmental Justice Coordinator

CalDMO staff were available to answer landowner/citizen specific questions related to Rustic Ridge #1 NPDES permit renewal regarding permit requirements, outfall limits, regulatory concerns, and discharges to the receiving stream during low flow conditions.

Specific concerns identified during the PH and received via email or mail correspondence are attached in the draft NPDES Fact Sheet Addendum. Because similar comments and questions were expressed by multiple landowners/citizens, the comments included in the draft NPDES Fact Sheet Addendum (Attachment A) are a combination of direct and paraphrased comments received during the PH and comment period. After review of the responses, if a person desires additional discussion or a meeting with the Department, please contact Troy Williams at the CalDMO (724.769.1100).

The final permitting action is pending the CalDMO's review of the Operator's compliance status. All attendees of the PH and individuals who provided written comments will be notified of the Department's final decision.

Attachment:

A – Draft NPDES Fact Sheet Addendum

**1) Comment:** I am especially concerned with quality of the poor - the quantity of the poorer quality water [sic] that will be present in the creek during low flow conditions. The Department should consider changing permitted discharges and flow limits to be based on what the natural flow conditions are at the time the monitoring is occurring. The environment and its natural conditions are not fixed and the permit conditions should be required to reflect natural – natural variations such as flow, with stricter limits in place during times of low flow.

**Response:** To be the most protective, the Department determines discharge limits based on low flow conditions and calculates them using Q7,10 flow conditions. A 7-day low flow (Q7) for a stream is statistically calculated by averaging flow measured during 7 consecutive days of the lowest flow rates during any given year. The 7-day 10-year low flow (Q7,10) is a statistical estimate of the lowest average flow that would be experienced during a consecutive 7-day period with an average recurrence interval of ten years. Because it is estimated to recur on average only once in 10 years, it is usually an indicator of low flow conditions during drought. The value for Q7,10 was calculated through the use of the StreamStats computer simulation based on the drainage basin configuration and historical flow data; the StreamStats report is included in the NPDES Fact Sheet. By using the Q7,10 flow rate for streams in the calculation of discharge limits, the Department is developing limits that are protective of the environment during periods of low flow conditions.

**2) Comment:** The draft fact sheet posits that the section of Champion Creek that the mine discharges into is essentially dry during low-flow periods of time. As such, the draft permit would result in Champion Creek being comprised of approximately 97% mine water downstream of the outfalls during low flow conditions.

**Response:** As stated above, the discharge limits established in the NPDES permit are based on Q7,10 flow rates, which represent the statistically calculated lowest flow conditions for the receiving streams over seven (7) consecutive days. Even when the flow downstream of the Rustic Ridge #1 outfalls is comprised of 97% mine water, the calculated effluent limits were calculated to be protective of the environment.

**3) Comment:** Is there any historical evidence of Champion Creek running dry?

**Response:** The Department has no evidence that Champion Creek has run dry. The stream has not been reported dry by the Operator and the Department has not received any notifications from the general public or environmental groups that Champion Creek has run dry, even prior to mining. The value used for calculation of limits is statistically generated.

**4) Comment:** The draft permit relies on what appears to be incorrect data to make its determinations. The draft permit claims that the section of Champion Creek that the mine discharges into is essentially dry during low-flow periods of time. However, MWA's testing – and community members whose families have been there for generations – has never suggested that was ever a time when Champion Creek ran dry.

**Response:** Please see the response to Comment No. 1 and Comment No. 3 that discusses low flow conditions (Q7,10), how they are calculated and how those calculations are used to develop the effluent limits established in the NPDES permit.

**5) Comment:** There is a potential for constant flooding of Champion Creek. The removal of crucial flow limits, which were originally established to protect the creek, could lead to severe flooding. The permit's failure to consider the proposed 1,400-acre expansion only adds to this uncertainty, as it means future water discharge calculations will rely on outdated data, leaving our local environment vulnerable. We all know the Champion Creek never runs dry, yet the draft permit assumes it does during low flow periods. This flawed assumption allowed the creek to be overwhelmed with mine water, which is heavily polluted with substances like iron, manganese and selenium.

**Response:** The Department is not proposing to remove flow limits as part of this NPDES renewal. The flow limits you reference were part of a private agreement between the Operator and MWA and is not germane to the Department's review of the NPDES application.

The Department must calculate limits based on the flow information for each outfall provided by the operator in the application. The maximum flow from each facility and the receiving streams' low flow conditions have been used to calculate limits that are protective of the receiving streams. If the Operator would resize a pond or modify a pump for larger flows, these modifications would require a permit change. An application would need to be submitted, publicized and reviewed by the Department to determine new limits on the proposed flow.

**6) Comment:** The flow limits that were removed for this renewal permit were set by expert ecologists, expert mine engineers, as part of our settlement agreement with LCT.

**Response:** See response to Comment No. 5.

**7) Comment:** Water quality concentrations of iron, magnesium and selenium in the approved discharge concentrations are all too high.

**Response:** Limits included in the permit were calculated using the Department's Toxics Management Spreadsheet (TMS). TMS evaluates the reasonable potential for discharges to cause excursions above water quality standards and is used by the Department to determine appropriate water-quality based effluent limits.

The conditions used to evaluate reasonable potential are based on a hypothetical worst-case scenario. In this case, the Department modeled the discharge at its highest flow rate into the receiving stream during low flow conditions (Q7,10). The calculated effluent limit is the maximum discharge concentration that can occur and still be protective of water quality standards promulgated by EPA (40 CFR 434 Subpart C, *Acid or Ferruginous Mine Drainage*) and the Commonwealth (25 Pa Code 93, *Water Quality Standards & 25 Pa Code 89.52, Water quality standards, effluent limitations and best management practices*). The limit is also compliant with applicable technology-based treatment standards. This results in an effluent limit which is not only protective during low flow conditions, but also during times of normal flow conditions.

## SELENIUM COMMENTS

**8) Comment:** When I reviewed the permit application, I noticed that selenium levels are not listed as industrial waste discharges to surface water or stormwater associated with mining activities. This omission is concerning given the potential significant public health and environmental impact. I understand that selenium is on a compliance schedule that is already required to be reported. LCT has proposed a selenium limit of 12.5 milligrams per week. The Department, although it has not been, I guess, approved, has proposed 4.6 micrograms of selenium. Math is not really a strong point of mine, but 4.6 micrograms and 12.5 milligrams there's a difference of over 20,000. In addition to testing the water outflow, to begin mandatory testing of the silt and soil within the water and rid the area of the NPDES outflow. [sic]

**Response:** The Department made a typographical error regarding the units of measurement. The 12.5 milligrams per liter (mg/L) should have been reported as 12.5 micrograms per liter [ $\mu\text{g/L}$ ] in Table 4 of the NPDES Fact Sheet. Please refer to Part B of the draft permit for the correct units showing an instantaneous maximum limit of selenium at 12.5  $\mu\text{g/L}$ .

Outfall 003 will receive a compliance schedule for selenium which begins on the permit effective date and lasts 60 months. The applicant is required to provide progress reports throughout the duration of the compliance schedule as shown in Part B of the draft permit. The objective is to achieve compliance with selenium limits no later than the

conclusion of the 60-month period. Numerical limits for selenium will be enforced at Outfall 003 on the first day of the 60<sup>th</sup> month of the compliance schedule. The standard multipliers of 2 and 2.5 times the average monthly limit were used to calculate the maximum daily limit and the instantaneous maximum limit.

**9) Comment:** For example, the selenium limits, which we believe would not be high enough [sic], and we're also very concerned about the fact that they don't go into effect for at least five years. So LCT's only required to monitor the report, which means that if they do, you know, discharge selenium at a high rate and cause a fish kill, that doesn't mean that they have violated specific selenium limit in their permit. So we would encourage the Department to go ahead and implement those strict standards now, and particularly to adopt the EPA's limit of 3.1 micrograms per liter, which is what they say is the safe levels for protecting fish and animals, which is also still much more protected than what's being proposed right now.

**Response:** Please see the Response to Comment No. 7 above for how the selenium limits were calculated. The aquatic life criterion for selenium (4.6 micrograms per liter) identified in 25 Pa. Code Chapter 93 has been approved by the EPA and approved for use in implementing the NPDES permit program.

The compliance schedule does not exempt the permittee from conditions of transparency and accountability. The permittee must report to the Department any noncompliance which may endanger health or the environment within 24 hours of becoming aware of the circumstances. The permittee is also obligated to provide the Department with any information which the Department may request to determine if cause exists to modify, revoking and reissuing, or terminating this permit or to determine compliance with this permit.

**10) Comment:** Why would any of the limits of the NPDES permits be increased at this point? Why would selenium be report only when we thankfully have some wise input about the impacts of selenium, the outrageous limit that LCT is propose [sic]? And I think the Department can see the path too of protection and not go with their outrageous limit. And I feel bad. I didn't even know it was that switch from micro to milligrams, which is extremely huge.

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**11) Comment:** The permit does not include stringent enough selenium limits. Safe levels according to the EPA are 3.1 micrograms per liter to keep fish and other water animals safe, and 4.6 micrograms per liter according to Pennsylvania Chapter 93 limits.

**Response:** The aquatic life criterion for selenium (4.6 micrograms per liter) identified in 25 Pa. Code Chapter 93 has been approved by the EPA and approved for use in implementing the NPDES permit program.

**12) Comment:** Selenium reporting: Current reporting limits are too high. One is 3 times higher than safe levels, posing a threat to fish and aquatic life. Reporting requirement for selenium is insufficient.

**Response:** The average monthly limit at the conclusion of the compliance schedule has been calculated to be 4.99 µg/L. This is a calculated value that accounts for a certain amount of dilution provided by the receiving stream. The effluent limits are calculated to be protective of the environment and follow the criterion contained in 25 Pa. Code Chapter 93.

The Department calculated that with dilution provided by the receiving stream, the permittee can discharge an average monthly concentration of 4.99 micrograms per liter without exceeding the Chapter 93 value. The standard multiplier of 2 times the average monthly limit for the maximum daily limit and 2.5 times the average monthly limit for the instantaneous maximum limit was used.

**13) Comment:** According to the draft NPDES permit application that has been made available, the instantaneous maximum mining discharge for selenium is proposed to be set at 12.5 mg/L. While the current Federal and State maximum contaminate level for selenium in drinking water is 0.05 mg/L, the Authority has not, to date, had a detectable level of selenium in our finish water.

**Response:** See the response to Comment No. 8. The aquatic life criterion for selenium (4.6 micrograms per liter) in 25 Pa. Code Chapter 93 has been approved by the EPA and approved for use in implementing the NPDES permit program. This concentration is more protective than the referenced drinking water standard.

#### **RUSTIC RIDGE EXPANSION COMMENTS:**

**14) Comment:** The expansion application includes a proposal for about 1,400 acres to be added onto the existing mine permit boundary. And that 1,400 acres includes underground water that will be pumped out of this outfall at three point. But at no point in this NPDES renewal permit application, and at no point in the expansion application that LCT submitted did they say how that additional volume will be treated, will be handled. You know, whether it needs - it might warrant changes to their existing treatment system.

**Response:** The proposed expansion application is still under technical review. However, the Department has reviewed this issue. The initial treatment pond design took into consideration an assumed water make (0.5 gpm/acre) from the mine formation. The actual water make is considerably lower (0.12 gpm/acre). The initial design assumption has caused the existing treatment facilities to be oversized. Based on the existing water make and the proposed water make for the expansion area, additional ponds will not be necessary.

#### **MISCELLANEOUS NPDES COMMENTS**

**15) Comment:** Currently, the minimum measurement frequency set under the monitoring requirements for every constituent in the permit is only twice per month. The effluent limitations, however, establish a daily maximum for each parameter. Requiring sampling to be conducted only twice a month does not ensure that the daily maximum for each parameter is being complied with.

**Response:** The Operator is required to sample the discharge at a minimum of two (2) times per month. The Operator may elect to conduct additional sampling to calculate compliant monthly averages. If the daily sample values exceed the permitted value, a compliance action may be taken and corrective action(s) may be necessary, if the exceedances persist.

In addition to the Operator-provided sampling data, the Department's compliance staff conducts regular inspections, during which the Department will sample the discharge of the outfalls to verify compliance. If exceedances persist or treatment is found to be ineffective, the Department may require corrective action such as modifications to the treatment system or ceasing of discharges.

**16) Comment:** The draft Rustic Ridge NPDES permit does nothing to satisfy the anti-degradation policy, and no social-economic justification was required or prepared. Therefore, until a TMDL has been prepared for the Champion Creek watershed no additional discharges particularly those which contain the pollutants responsible for placing Champion Creek on the 303(d) list in the first place, should be permitted.

**Response:** The receiving waterbody, Champion Creek, is currently designated Cold Water Fishes (CWF). Assessment efforts completed in 1998 indicate that this reach of Champion Creek is currently supporting this Aquatic Life Use. Champion Creek is not listed as impaired on Pennsylvania's Water Quality Integrated Report; therefore, no TMDL is required. Pennsylvania's Antidegradation regulations at 25 Pa. Code § 93.4a apply to all surface waters. Per § 93.4a(b), existing instream water uses at the level of water quality necessary to protect the existing uses shall be maintained and protected. This is accomplished by developing water quality effluent limits that ensure

existing and designated uses are protected. In this case the protected use is CWF. Additional provisions including § 93.4a(c) and (d) apply to High Quality Waters (HQ) and Exceptional Value Waters (EV).

# ATTACHMENT A

## DRAFT NPDES FACT SHEET ADDENDUM

California District Office  
MINING PROGRAM

Application Type Renewal  
 Facility Type Deep Mine & Prep Plant  
 Site ID \_\_\_\_\_

**FACT SHEET ADDENDUM INDIVIDUAL  
 NPDES PERMIT ASSOCIATED  
 WITH MINING ACTIVITES**

Application No. PA0236241  
 APS ID \_\_\_\_\_  
 Authorization ID \_\_\_\_\_

**Applicant and Facility Information**

Applicant Name	<u>LCT Energy, LP</u>	Facility Name	<u>Rustic Ridge #1</u>
Applicant Address	<u>938 Mt. Airy Drive, Suite 200 Johnstown, PA 15904</u>	Location	<u>40° 6' 01", -79° 23' 39" 896 County Line Road, Acme PA 15610</u>
Applicant Contact	<u>Mark R. Tercek</u>	Facility Contact	<u>Mark R. Tercek</u>
Applicant Phone/Email	<u>814-254-4065, mark.tercek@lctenergy.com</u>	Facility Phone	<u>814-254-4065, mark.tercek@lctenergy.com</u>
Client ID	<u>285013</u>	CMAAP No.	<u>65131301</u>
SIC Code/Description	<u>1222- Bituminous Coal Underground Mining</u>	Municipality	<u>Donegal Township</u>
Type of Mining Activity	<u>Deep Mine</u>	County	<u>Westmoreland, Fayette</u>
Date Application Received	_____		_____
Date Application Accepted	<u>8/25/2021</u>		_____
Purpose of Application	<u>Permit Renewal</u>		

**Summary of Review**

LCT Energy, LP has applied to renew its underground mining activity and associated NPDES permits for the Rustic Ridge #1 underground bituminous mine. Mine development commenced during August 2018. The underground permit area is currently 2,844.9 acres with a proposed expansion of 1,452.0 acres for a total of 4,296.9 acres. The Lower Kittanning coal seam is mined using room and pillar methods with no secondary mining. Coal is transported from the mine on conveyors. The estimated life of mine is 18 years provided the expansion acreage is approved.

There are three NPDES outfalls associated with the operation. Outfalls 001 and 002 discharge from non-contact sedimentation basins (sediment ponds) that collect water from surface runoff into collection ditches. Both ponds (Pond 1 and 2) have valves to control dewatering to confirm effluent limits are met before dewatering. Outfall 003 discharges treatment plant water including surface runoff from coal stockpile and other surface areas.

The receiving stream for Outfall 001 and 003 is Champion Creek and the receiving stream for Outfall 002 is UNT#9 to Champion Creek. The EPA Waiver is not in effect because Champion Creek discharges to the Monongahela River watershed.

The draft effluent limitations appeared in the Pennsylvania Bulletin on May 4, 2024.

A public hearing (PH) was held at St. Raymond of the Mountain Parish regarding the renewal of the National Pollution Discharge Elimination System (NPDES) Permit for the Rustic Ridge #1 on August 28, 2024. The hearing started at 6:15 PM and concluded at 7:50 PM. The PH was held in response to requests received by the Pennsylvania Department of Environmental Protection (Department) from Mountain Watershed Association, as well as several community members. Fifty-two (52) members of the public, including a reporter from the Daily Courier and Westmoreland County Commissioner, Ted Kopas, attended the PH.

Specific concerns identified during the PH and received via email or mail correspondence are below. Because similar comments and questions were expressed by multiple landowners/citizens, the comments included in the draft NPDES Fact Sheet Addendum are a combination of direct and paraphrased comments received during the PH and comment period. PADEP's response to comments from EPA Region 3 and LCT Energy, LP are also below.

## Summary of Review

### Public hearing comments and responses from August 28, 2024:

1) Comment: I am especially concerned with quality of the poor - the quantity of the poorer quality water [sic] that will be present in the creek during low flow conditions. The Department should consider changing permitted discharges and flow limits to be based on what the natural flow conditions are at the time the monitoring is occurring. The environment and its natural conditions are not fixed and the permit conditions should be required to reflect natural – natural variations such as flow, with stricter limits in place during times of low flow.

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2) Comment: The draft fact sheet posits that the section of Champion Creek that the mine discharges into is essentially dry during low-flow periods of time. As such, the draft permit would result in Champion Creek being comprised of approximately 97% mine water downstream of the outfalls during low flow conditions.

Response: As stated above, the discharge limits established in the NPDES permit are based on Q7,10 flow rates, which represent the statistically calculated lowest flow conditions for the receiving streams over seven (7) consecutive days. Even when the flow downstream of the Rustic Ridge #1 outfalls is comprised of 97% mine water, the calculated effluent limits were calculated to be protective of the environment.

3) Comment: Is there any historical evidence of Champion Creek running dry?

Response: The Department has no evidence that Champion Creek has run dry. The stream has not been reported dry by the Operator and the Department has not received any notifications from the general public or environmental groups that Champion Creek has run dry, even prior to mining. The value used for calculation of limits is statistically generated.

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Response: Please see the response to Comment No. 1 and Comment No. 3 that discusses low flow conditions (Q7,10), how they are calculated and how those calculations are used to develop the effluent limits established in the NPDES permit.

5) Comment: There is a potential for constant flooding of Champion Creek. The removal of crucial flow limits, which were originally established to protect the creek, could lead to severe flooding. The permit's failure to consider the proposed 1,400-acre expansion only adds to this uncertainty, as it means future water discharge calculations will rely on outdated data, leaving our local environment vulnerable. We all know the Champion Creek never runs dry, yet the draft permit assumes it does during low flow periods. This flawed assumption allowed the creek to be overwhelmed with mine water, which is heavily polluted with substances like iron, manganese and selenium.

Response: The Department is not proposing to remove flow limits as part of this NPDES renewal. The flow limits you reference were part of a private agreement between the Operator and MWA and is not germane to the Department's review of the NPDES application.

The Department must calculate limits based on the flow information for each outfall provided by the operator in the application. The maximum flow from each facility and the receiving streams' low flow conditions have been used to calculate limits that are protective of the receiving streams. If the Operator would resize a pond or modify a pump for larger flows, these modifications would require a permit change. An application would need to be submitted, publicized and reviewed by the Department to determine new limits on the proposed flow.

6) Comment: The flow limits that were removed for this renewal permit were set by expert ecologists, expert mine engineers, as part of our settlement agreement with LCT.

Response: See response to Comment No. 5.

7) Comment: Water quality concentrations of iron, magnesium and selenium in the approved discharge concentrations are all too high.

Response: Limits included in the permit were calculated using the Department's Toxics Management Spreadsheet (TMS). TMS evaluates the reasonable potential for discharges to cause excursions above water quality standards and is used by the Department to determine appropriate water-quality based effluent limits.

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Response: The average monthly limit at the conclusion of the compliance schedule has been calculated to be 4.99  $\mu\text{g/L}$ . This is a calculated value that accounts for a certain amount of dilution provided by the receiving stream. The effluent limits are calculated to be protective of the environment and follow the criterion contained in 25 Pa. Code Chapter 93.

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Response: The proposed expansion application is still under technical review. However, the Department has reviewed this issue. The initial treatment pond design took into consideration an assumed water make (0.5 gpm/acre) from the mine formation. The actual water make is considerably lower (0.12 gpm/acre). The initial design assumption has caused the existing treatment facilities to be oversized. Based on the existing water make and the proposed water make for the expansion area, additional ponds will not be necessary.

### MISCELLANEOUS NPDES COMMENTS

15) Comment: Currently, the minimum measurement frequency set under the monitoring requirements for every constituent in the permit is only twice per month. The effluent limitations, however, establish a daily maximum for each parameter. Requiring sampling to be conducted only twice a month does not ensure that the daily maximum for each parameter is being complied with.

Response: The Operator is required to sample the discharge at a minimum of two (2) times per month. The Operator may elect to conduct additional sampling to calculate compliant monthly averages. If the daily sample values exceed the permitted value, a compliance action may be taken and corrective action(s) may be necessary, if the exceedances persist.

In addition to the Operator-provided sampling data, the Department's compliance staff conducts regular inspections, during which the Department will sample the discharge of the outfalls to verify compliance. If exceedances persist or treatment is found to be ineffective, the Department may require corrective action such as modifications to the treatment system or ceasing of discharges.

16) Comment: The draft Rustic Ridge NPDES permit does nothing to satisfy the anti-degradation policy, and no social-economic justification was required or prepared. Therefore, until a TMDL has been prepared for the Champion Creek watershed no additional discharges particularly those which contain the pollutants responsible for placing Champion Creek on the 303(d) list in the first place, should be permitted.

Response: The receiving waterbody, Champion Creek, is currently designated Cold Water Fishes (CWF). Assessment efforts completed in 1998 indicate that this reach of Champion Creek is currently supporting this Aquatic Life Use. Champion Creek is not listed as impaired on Pennsylvania's Water Quality Integrated Report; therefore, no TMDL is required. Pennsylvania's Antidegradation regulations at 25 Pa. Code § 93.4a apply to all surface waters. Per § 93.4a(b), existing instream water uses at the level of water quality necessary to protect the existing uses shall be maintained and protected. This is accomplished by developing water quality effluent limits that ensure existing and designated uses are protected. In this case the protected use is CWF. Additional provisions including § 93.4a(c) and (d) apply to High Quality Waters (HQ) and Exceptional Value Waters (EV).

End PH comments and responses from August 28, 2024

### Comment from Jen Fulton (EPA Region III) on May 21, 2024:

Outfall 001 – Selenium sampling

Fact Sheet (pg. 3) states the Permittee shall collect six samples on a weekly basis from Outfall 001 to be analyzed for Selenium. During the May 1, 2024 conversation, EPA brought to DEP's attention that the draft permit does not include that sampling. It is EPA's understanding that DEP will reconcile the draft permit and fact sheet to be consistent with one another. EPA recommends that the Draft Permit be revised to include this selenium sampling.

Response: Part A of the NPDES Permit has been revised to include selenium sampling at Outfall 001.

## Summary of Review

### **Comment from Mark Tercek (LCT Energy, LP) on April 29, 2024:**

1. On the new Fact Sheet, the Department missed Fayette County on Page 1.

Response: The Fact Sheet has been revised to include Fayette County.

2. Ponds 1 and 2 have valves to control dewatering, to confirm effluent limits are met before discharging.

Response: The Fact Sheet has been revised to include this information.

3. The draft NPDES Permit Part A has the wrong effective date (should say "Permit Amendment Effective Date") for Outfall 003 (looks OK for Outfalls 001 and 002).

Response: The "Permit Amendment Effective Date" has been corrected.

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**FW: [External] PA0236241 LCT Energy, LP Rustic Ridge #1**

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**From** Noe, Wendy <wnoe@pa.gov>  
**Date** Wed 12/18/2024 2:16 PM  
**To** Stamm, Troy <trstamm@pa.gov>

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**From:** Fulton, Jennifer <Fulton.Jennifer@epa.gov>  
**Sent:** Tuesday, May 21, 2024 7:17 AM  
**To:** Williams, Troy <troawillia@pa.gov>  
**Cc:** Noe, Wendy <wnoe@pa.gov>; Hill, Sharon <shill@pa.gov>; Crane, Rebecca (she/her/hers) <crane.rebecca@epa.gov>; R3 NPDES Mining Submittals <R3\_NPDES\_Mining\_Submittals@epa.gov>; Moncavage, Carissa (she/her/hers) <Moncavage.Carissa@epa.gov>  
**Subject:** [External] PA0236241 LCT Energy, LP Rustic Ridge #1

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Hello Troy,

Pursuant to Section 402 of the Clean Water Act, 40 C.F.R. § 123.44, and the Memorandum of Agreement Regarding the Administration and Enforcement of the National Pollutant Discharge Elimination System (NPDES) in the Commonwealth of Pennsylvania (1991) (MOA), the U.S. Environmental Protection Agency (EPA) Region III received the draft permit reissuance identified below:

LCT Energy, LP Rustic Ridge #1

NPDES Permit: PA0236241

EPA Received: April 18, 2024

30-day response due date: May 18, 2024; next business day May 20, 2024

LCT Energy, LP has submitted an application to renew the NPDES permit for the Rustic Ridge #1 underground mining operation. The permit authorizes the discharge of non-contact sediment basin and treatment plant water into unnamed tributary #9 to Champion Creek and Champion Creek in the Monongahela River Watershed.

The underground mining operation is currently composed of three NPDES outfalls (001, 002, and 003). Based on a limited review of the draft permit, fact sheet, and conversation with PADEP on May 1, 2024, EPA has the following comment:

Outfall 001 – Selenium sampling

Fact Sheet (pg. 3) states the Permittee shall collect six samples on a weekly basis from Outfall 001 to be analyzed for Selenium. During the May 1, 2024 conversation, EPA brought to DEP's attention that the draft permit does not include that sampling. It is EPA's understanding that DEP will reconcile the draft permit and fact sheet to be consistent with one another. EPA recommends that the Draft Permit be revised to include this selenium sampling.

Thank you for the opportunity to discuss this draft permit with my staff. Please revise the draft permit to address the discrepancy described above and submit those changes for review to Rebecca Crane of my staff via electronic mail at [crane.rebecca@epa.gov](mailto:crane.rebecca@epa.gov). If you have any questions concerning this matter, please coordinate with Rebecca by telephone at 215-814-2389.

Sincerely,  
Jen Fulton



Acting Chief, Clean Water Branch  
US EPA Mid-Atlantic Region  
Phone 304-234-0248  
Email [fulton.jennifer@epa.gov](mailto:fulton.jennifer@epa.gov)



Jennifer Fulton (she/her)



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**FW: [External] Draft Permit**

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**From:** Noe, Wendy <wnoe@pa.gov>  
**Date:** Wed 12/18/2024 2:16 PM  
**To:** Stamm, Troy <trstamm@pa.gov>

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**From:** Williams, Troy <troawillia@pa.gov>  
**Sent:** Monday, April 29, 2024 9:59 AM  
**To:** Noe, Wendy <wnoe@pa.gov>  
**Subject:** FW: [External] Draft Permit

FYI. Comments as discussed.

**Troy A. Williams, P.E.** | Environmental Group Manager

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**From:** Mark Tercek <[Mark.Tercek@lctenergy.com](mailto:Mark.Tercek@lctenergy.com)>  
**Sent:** Monday, April 29, 2024 8:54 AM  
**To:** Williams, Troy <[troawillia@pa.gov](mailto:troawillia@pa.gov)>  
**Cc:** Ken Yingling <[Ken.Yingling@lctenergy.com](mailto:Ken.Yingling@lctenergy.com)>  
**Subject:** [External] Draft Permit

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Troy:

As we discussed last week, a few minor points on the draft NPDES permit:

1. On the new Fact Sheet, the Department missed Fayette County on Page 1.
2. Ponds 1 and 2 have valves to control dewatering, to confirm effluent limits are met before discharging.
3. The draft NPDES Permit Part A has the wrong effective date (should say " Permit Amendment Effective Date") for Outfall 003 (looks OK for Outfalls 001 and 002).

Thanks,

Mark