



Suggested Talking Points

River Pointe Warehouse Testimony for PADEP Hearing on Water Impacts Nov 13, 2023 NPDES and Joint Water Applications

Thank you for voicing your concerns to PADEP regarding River Pointe Logistics LLC Phase 1 industrial warehouse applications under review and consideration by PADEP and sister agencies (Northampton Co. Conservation District, Army Corps of Engineers and others) for a National Pollutant Discharge and Elimination System (NPDES) permit and a Joint Water and Wetland Encroachment Permit. Feel free to use any of these sample talking points focusing on **water impacts for testifying and writing into DEP and agencies after the hearing during the public comment. Written comments can be sent to Colleen Connolly, Community Relations Coordinator at: cconnolly@pa.gov** - please consider cc'ing Delaware Riverkeeper Network (drn@delawariverkeeper.org) on your comments as well. Walk-in attendees will be allowed to speak - those who preregistered to speak in advance will be given priority to speak first. Written comments will be accepted after the public hearing and DEP may or may not announce a deadline during the hearing for written comments. Please stay tuned at www.delawariverkeeper.org and consider signing up for DRN's action alerts to receive upcoming action alerts: <https://www.delawariverkeeper.org/e-activist>
To view River Pointe's water applications on file at PADEP visit: <https://bit.ly/RiverPointeWaterApp>

Overview of Warehouse Proposal: *Lou Pektor's River Pointe Logistics Center, LLC proposes to construct Phase I of the River Pointe Logistics Center project in Upper Mount Bethel Township, which includes the construction of roadway infrastructure, stormwater facilities, and three (3) industrial buildings totaling approximately 1.9 million square feet, with projected future buildings to be designed and permitted in subsequent phases (approx. 6 million SF total). The NPDES permit application would allow discharge of stormwater from construction activities at the site to: an unknown tributary to Delaware River (cold water fishery, migratory fish); an unknown tributary to Allegheny Creek (cold water fishery, migratory fish); other wetlands & Exceptional Value wetlands, and is subject to special protections under the Clean Water Act. The development, known as [River Pointe Commerce Park](#), is actually three distinct projects comprising 13 warehouse-sized buildings taking up more than 6 million square feet — roughly the equivalent of 43 Costco stores. The Lehigh Valley Planning Commission, in a July 2022 letter to township planners, cast the project in sweeping terms, describing it as “the largest in the Lehigh Valley in decades and possibly ever” (Delaware Currents, Chris Mele, May 2023) and outlined major concerns about the project and the National Park Service (NPS) has also weighed in with major concerns to views and watershed threats to the Wild & Scenic corridor and nearby Delaware Water Gap National Recreation Area. Today's hearing focuses on the water permits before PADEP and sister agencies.*

Sample Talking Points

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- **Most Important: The applications are inadequate, incomplete, and clearly outlines environmentally sensitive features, such as, steep slopes, forests, creeks, streams and wetlands on site that would be lost or degraded and stormwater impacts that would inflict irreversible damage and harm to the land and water - We urge DEP to protect the community and deny these water permits for the harms it would bring.**
- **Thank you for holding this hearing for yet another warehouse project before PADEP which if allowed, would have overwhelming negative impacts that would change the health of our streams, wetlands, forests, wild & scenic corridor and area forever here in Northampton County. We urge you in your role of Pennsylvania DEP, the Northampton Co Conservation District, the Army Corps of Engineers and other sister agencies to deny these warehouse permits being sought by Mr. Pektor and put our community rights to clean air, water and a healthy environment as outlined in PA's Constitution, Article 1 Section 27, before this mega warehouse proposal.**
- The application is being presented in phases. Phase 1, which includes three buildings proposed in this application. The Demi Rd in another. This piecemeal approach, whether done intentionally or not, obscures full cumulative analysis and total impact of the entire industrial complex build-out. Without full and complete information, DEP would be jeopardizing water quality protections of the Delaware River and other surrounding natural resources
- These applications are woefully incomplete at best and evasive developer tactics at worse - App materials for Phase 1 "proposes the construction of roadway infrastructure, stormwater facilities, and 3 industrial buildings" - but additional plans by developer denotes up to 12 buildings in future phases – totaling up to the size of 43 Cosco's (C. Mele, Delaware Currents article). DEP's summary of the site states "this is a proposed 6 million SF warehouse project proposing the construction of roadway infrastructure, stormwater facilities, and 3 industrial buildings, with projected future buildings to be designed and permitted in subsequent phases." Do not allow this piecemeal approach.
- Much of this site from the application and USGS topographic maps indicates forested wetlands, Exceptional Value wetlands, open wetlands with likely bog turtle presence and habitat, steep slopes and multiple hill tops in addition to several headwater tributaries that flow directly into the protected Wild & Scenic Delaware River and Special Protection Waters as regulated by the DRBC. In short, this site is challenging because it is environmentally sensitive and DEP needs to deny the permits.
- Per the water encroachment application, the Phase I project would disturb 285.75 acres and partly drain to special protection areas including Exceptional Value (EV) wetlands which are not allowed to be degraded under PA's Chapter 93 anti-degradation laws and Clean Water Act provisions. The application proposes to place fill and excavate within or along a watercourse,

floodway, or body of water that drain into special protection waters of the main stem Delaware River -- no allowance of fill or encroachment to waterbodies should be permitted.

- The developer's Post Construction Stormwater Plan notes that the site and forest has been undisturbed for at least 50 years according to historical aerial photos and gives a complete acreage of 750 acres to be disturbed while the applicant's Environmental Assessment (EA) states that the surrounding woodlands are managed and there have been timber harvests in recent years - which is it? Conflicting evidence and information does not help give confidence the application is accurate or complete.
- The proposed site has tremendous amounts of regulated waters present on the site. The developer's environmental report (i.e. Environmental Assessment or EA) states there are 43 identified wetlands totaling 32.27 acres of wetlands in addition to 13 waters present on the property totaling 16,468 linear feet. It's critical that these wetlands and waterbodies are protected. The plan does not go far enough to ensure adequate natural forested buffers around these water resources that would act as natural filters of runoff. As designed, harms will occur especially from the massive amounts of rooftops and parking lots that will be a source of non-point polluted runoff that pose major threats to local waterways and the Delaware River.
- Storm severity and frequency is projected to worsen as a result of Climate Change. According to the PADEP, Climate Change in Pennsylvania is leading to Precipitation increased an average of 10 percent with many places seeing a 20 percent increase. ☁ Precipitation is expected to increase another 8 percent by 2050. ☁ Between 1958 and 2010, the Northeast U.S. saw more than a 70 percent increase in the amount of precipitation falling in very heavy events. With these projections for the future, PADEP, the Township and other agencies must all look at the worst-case-scenarios when considering the impacts of development projects.
- The science is clear about the importance of headwater stream protection and wetlands protections even if the environmental regulations are not keeping up. Encroachment of any kind should not be allowed for any of the tremendous water bodies and wetlands located on the site and as written, the application must be denied by DEP.
- Exceptional value wetlands which are present on the site are not allowed to be degraded per DEP's anti-degradation laws and the Clean Water Act. Buffers that are noted in the plans are not adequate to protect surrounding waterbodies from industrial warehouse and stormwater pollution inputs.
- The applicant states that sewage treatment facilities, sanitary sewers or pump stations will be needed for this Phase 1 project. Yet there is not an approved Act 537 plan. Just last week DEP rejected the Eastern Pike County Regional Act 537 plan just north of this area so Northampton Co should be careful. Allowing this phase of the warehouse project to be

approved before a regional Act 537 if finalized would be putting the cart before the horse and not protective of designated special protection waters and Exceptional Value wetlands¹.

- This development has been a major discussion over the months at the Lehigh Valley Planning Commission (LVPC) meetings. LVPC letters on record note many concerns with the project and conclude, “Taken as a whole, in consideration of the issues discussed in this letter, the project fails to align with the policies of FutureLV.”² Planning is a fundamental piece to ensuring protection of the community we have here remaining in the Lehigh Valley. DEP should be taking examples from New Jersey that has provided resources to aid communities holistically when it comes to warehouse sprawl underway.
- This project will result in clearing forests, filling wetlands, reducing buffers, and impacting headwater streams. This is exactly the sort of project that makes the impacts of climate change worse. Just last week, NOAA released (Nov 8, 2023) that the U.S. confirmed another billion-dollar disaster in October, bringing the total to a record 25 disasters totaling over 1 Billion each in the first 10 months of 2023 — the largest number of disasters for any year since NOAA has kept track of these types of events. For this YTD period, the first 10 months of 2023 rank highest for disaster count, ahead of those of 2020 which saw 19 disasters at this point in the year. The total cost of the 2023 events exceeds \$73.8 billion. The U.S. has sustained 373 separate weather and climate disasters since 1980, where overall damages/costs reached or exceeded \$1 billion (including Consumer Price Index adjustment to 2023). The total cost of these 373 events exceeds \$2.645 trillion. <https://www.noaa.gov/news/mississippi-river-hit-record-low-levels-in-october>
- Fish and Wildlife service believes bog turtles, a federally listed endangered species, are still present on the proposed warehouse site yet the developer’s consultant failed to locate any in its trap study in the spring of 2020. One of the wetlands on site found 2 bog turtles on site as late as 2006 and suitable habitat still exists. It is very likely these elusive small turtles are surviving in this wetland complex that if surrounded by warehouses, would certainly jeopardize the population.
- Both PADEP and USFWS requested the applicant to not put a trail within 300 feet of Wetland 18 but this request was ignored in the response letter. The trail is not contained within the NPDES/LOD boundaries around the wetland, and crosses and impacts several watercourses & wetlands not labeled as stream crossings. It is within the 300’ bog turtle buffer and a construction detail (along with associated cover type) has not been provided. This is one of many examples of flagrant disregard by the applicant to adhere to agency requests.

¹ May 24, 2023 Delaware Currents. Commerce Park, a plan that has three components: River Pointe Logistics, RPL East and 303 New Demi Road, which are projected to be built in phases over 10 years. Public records show that a 420,000-square-foot building is proposed at 303 Demi Road and a 388,800-square-foot building would rise at 5027 River Road <https://delawarecurrents.org/2023/01/24/river-pointe-development>

² Oct 23, 2023 Lehigh Valley Live, https://www.lehighvalleylive.com/slate-belt/2023/10/slate-belt-roads-cant-withstand-the-traffic-river-pointe-project-will-bring-lvpc-says.html?fbclid=IwAR0E_N3gx-07Fm7MvVOsKw9a56m3034oUGbYdZ7rHChOJIBXsBeAGfIEzQ

- The Lower Delaware Wild and Scenic River, including Tinicum, Tohickon and Paunacussing Creeks were designated into the National Wild and Scenic River System under Public Law 106-418 in 2000. The rivers were designated for their free-flowing condition, water quality and their Outstandingly Remarkable Values (ORVs) including cultural, ecological, recreational, geological, and scenic. These ORVs are described in detail in the Lower Delaware River Management Plan (1997), Lower Delaware Wild and Scenic River Study Report (1999), and the Delaware River Basin National Wild and Scenic River Values (2012). The National Park Service has expressed concern of direct impact to the Wild & Scenic Delaware River if this warehouse complex were allowed to be built. The harm would be irreversible and change the region forever.³
- The applicant's Environmental Assessment (EA) uses National Wetlands Inventory (NWI) mapping for wetlands which experts have illustrated often do not reflect the actual wetlands and perimeter of wetlands on the ground accurately. For accuracy, we urge that actual field truthing and an independent Jurisdictional Determination (JD) by the Army Corps be conducted.⁴
- DEP's press release for this Nov 13th public meeting did not include a link to warehouse application materials available on the DEP website and only listed how plans could be accessed from a physical address as compared to other press releases for similar warehouse where a link was included. In order to allow adequate public engagement on such a large impactful project additional time and public comment extensions should be permitted for the public to weigh in. DRN again recommends no allowance as a piece meal application of just 3 buildings should be permitted.
- The soils on this site are glacial in nature which raises many potential threats to groundwater and surrounding waterbodies as well as threats to the permanent disruption of these sensitive soils by disturbance and construction.
- This project is not water-dependent. Therefore, threatening and encroaching on water resources as the applicant is attempting to do, should not be allowed under Chapter 105 and antidegradation and water quality regulations.
- The application reveals questionable, if not absent, explanations and justifications for various BMP choices that allow unnecessary threat to adjacent and downgradient wetlands and waters, including possible direct discharge to these EV water resources.
- There is a proposed impact of 454 square feet to Wetland 38. The required mitigation ratio is 1:1, however only 354 square feet of mitigation is proposed (100 square feet less). This is not a 1:1 ratio.

³ National Park Service letters re; RiverPointe Logistics LLC.

⁴ Stephen Kunz, 2020 Watershed Congress presentation, New Wetland Map for Pennsylvania.
<https://www.youtube.com/watch?v=0nVfHvf8-G8&t=1524s>

- The applicant claims that sources of hydrology for the mitigation site include mainly stormwater runoff from the proposed driveways as well as flow from the adjacent wetlands and waters. However, per Chapter 105 and NPDES regulations, untreated stormwater cannot be discharged to wetlands or mitigated wetlands. In addition, constructed wetlands for stormwater cannot be used for wetland mitigation.
- The applicant claims that the riparian buffer will result in a 50-ft buffer along the headwaters of this stream, preventing pollutants from entering the stream and mitigating the impacts from this project. This is not a large enough buffer considering the newly proposed HB1275 which calls for a minimum 100-foot buffer, plus an additional 25 feet if wetlands are present.
- The site is a forested site with trees that the applicant states are over 50 years old. Moyer intends to develop the 100-acre mostly forested site with 6 separate land development projects which will include large amounts of earth moving, soil disturbance, onlot septic and water, stormwater infiltration and stormwater detention BMPs. Forests help protect and replenish groundwater and forests also help shade the existing exceptional value wetland and reduce wetland water temperatures.
- With more extreme weather due to climate change, more droughts and more intense rain storms, even rain bombs are predicted and already occurring. The current forested nature of this site helps minimize the negative impacts these storms and droughts will cause. Forests are natural cleaners of our waters and are incredibly essential to protecting and preserving water quantity and water quality. However, the destruction of this forest will exacerbate these climate change extremes, harming the community and existing water quality of an UNT (unnamed tributary) to Delaware River (cold water fishery, migratory fish); and an UNT to Allegheny Creek (cold water fishery, migratory fish); other wetlands & EV wetlands.
- American Forests estimated that trees in the nation's metropolitan areas contribute \$400 billion in stormwater retention by eliminating the need for expensive stormwater re-tention facilities (Benedict and McMahon, 2006). A large mature oak tree can transpire 40,000 gallons of water per year; that is water that is not entering storm drains and thereby causing runoff, excessive streamflows and downstream erosion (U.S. Environmental Protection Agency, *Reducing Urban Heat Islands: Compendium of Strategies*, 2008). In a study of 27 U.S. water suppliers, researchers found that protecting forested watersheds used for drinking water sources can reduce capital, operation-al and maintenance costs for drinking water treatment. Researchers found that watersheds with a greater percentage of protected forest correlate to fewer water treatment expenditures: for each 10% increase in watershed forest cover, there is about a 20% decrease in treatment costs (Ernst, Caryn, Richard Gullick and Kirk Nixon. *Conserving Forests to Protect Water*, 2004). At the site development scale, green infrastructure can be characterized as an environmentally sensitive approach, involving a combination of techniques, which preserves natural systems and hydrologic functions on a site. Pektor's plans are working against nature instead of with it. Plans largely propose cutting down forests and building detention basins.