



October 30, 2023

Texas Eastern Transmission, LP  
c/o Joe McGaver  
11 East Superior Street  
Suite 125  
Duluth, MN 55802

Re: Acknowledgement of Waiver of Permit Requirements  
Appalachian to Market II & Armagh & Entriken HP Replacement Project  
DEP File No. WL3183222-001  
Todd Township  
Huntingdon County

Dear Mr. McGaver:

This letter is in reference to your request for a written acknowledgement of a waiver of permit requirements, received by the Department on August 5, 2022 for the installation of fence line, stormwater features, and tree clearing within the floodway of UNT to Great Trough Creek and the temporary crossing of said stream in Todd Township, Huntingdon County. The Huntingdon County portion of the project will impact a total of 0.01 acres of temporary impacts to UNT to Great Trough Creek (TSF, MF); 1.64 acres of permanent floodway impacts, of which 0.23 acres are permanent direct. There are no permanent stream impacts proposed.

In accordance with the provisions of Section 4 of the Dam Safety and Encroachments Act, the Act of November 26, 1978, P.L. 1375, No. 325 (as amended by Act 70), the proposed activity is regulated by this Act.

However, the Department waived water obstruction activities in streams or floodways with a drainage area of 100 acres or less, 25 Pa. Code §105.12(a)(2). A review of the submitted information reveals that the floodway/stream to be impacted has a drainage area less than 100 acres with no wetlands impacted and, therefore, this activity qualifies for coverage under this waiver.

The requirement for a permit is waived for the proposed activity in accordance with Section 7(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.7(a) and the provisions of Section CITATION, e.g., 25 Pa Code §105.12(a)(2) of Chapter 105 Rules and Regulations, Dam Safety and Waterway Management, as amended on February 16, 2013.

The Department acknowledges the waiver of permit requirements for the above proposed activity and directs the owner that:

- Proper erosion and sedimentation control measures are required during and after construction and the adequacy of these measures can be determined by contacting your local County Conservation District (see Exhibit C, 3150-PM-BWEW0500C at: <http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-11422>).
- An on-site inspection has not been performed. If wetlands exist and are affected by the activities described in this letter, this review/approval is void and a Water Obstruction and Encroachment Permit must be obtained in accordance with Section 6 of the Dam Safety and Encroachments Act, 32 P.S. § 693.6 and Section 105.11 of the rules and regulations, 25 Pa. Code § 105.11 prior to performing any work.
- The owner may be required to apply for a permit under this chapter if the Department, upon complaint or investigation, finds that a structure or activity which is eligible for a waiver has a significant effect upon safety or the protection of life, health, property or the environment.

**Please be advised that you do not have Federal authorization.** You will be contacted directly by the Corps of Engineers regarding federal authorization.

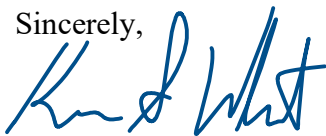
Any person aggrieved by this action may challenge it in an appropriate legal forum. The state and federal courts are currently split on whether the proper forum to challenge a Department permit, authorization or approval for a facility or activity subject to the Federal Natural Gas Act, 15 U.S.C. § 717 *et seq.*, is the United States Court of Appeals for the Third Circuit or the Pennsylvania Environmental Hearing Board. See *Delaware Riverkeeper Network v. Sec'y, Dep't of Env'tl. Prot.*, 833 F.3d 360 (3d Cir. 2016); *Delaware Riverkeeper Network v. Sec'y, Dep't of Env'tl Prot.*, 903 F.3d 65 (3d Cir. 2018), *cert. denied*, 139 S. Ct. 1648, 203 L. Ed. 899 (2019) and *Cole v. Dep't. of Env'tl Prot.*, 1577 C.D. 2019 WL 2420667 (Pa. Cmwlth Ct. June 15, 2021) (Pet. for Allowance of Appeal pending); *West Rockhill Twp. v. Dep't of Env'tl. Prot.*, No. 1595 C.D. 2019 WL 2426014 (Pa. Cmwlth. June 15, 2021) (Pet. for Allowance of Appeal pending).

You should promptly consult with a lawyer on the steps to take if you wish to challenge this action and to best protect your interests.

**IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE.**

If you have additional questions, please contact Nick Rossi at 717.772.5667 or [nicrossi@pa.gov](mailto:nicrossi@pa.gov).

Sincerely,



Kevin S. White, P.E.  
Environmental Group Manager  
Regional Permit Coordination Office

cc: AECOM Technical Services, Inc. (by email)  
U.S. Army Corps of Engineers, Baltimore District (by email)  
PA Fish & Boat Commission, Division of Environmental Services (by email)  
SCRO Regional ARD (by email)  
SCRO Regional Waterways and Wetlands (by email)  
Huntingdon County Conservation District (by email)  
Todd Township (by email)