

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

ETC Northeast Pipeline, LLC	:	2012 Oil and Gas Act and
6051 Wallace Run Extension, 3 rd Floor	:	The Clean Streams Law
Wexford, PA 15090	:	Allegheny, Beaver, Butler, and Washington
	:	Counties

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 26th day of February 2021, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), and ETC Northeast Pipeline, LLC (“ETC”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to implement, administer and enforce Chapter 32 of Title 58 of the Pennsylvania Consolidated Statutes, 58 Pa. C.S. §§ 3201 – 3274 (“2012 Oil and Gas Act”); The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1 – 691.1001 (“The Clean Streams Law”); the Dam Safety and Encroachments Act, Act of November 26, 1978, P.L. 1375, *as amended*, 32 P.S. §§ 693.1 – 693.27 (“Dam Safety Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“Regulations”).

B. ETC is a foreign limited liability company doing business in Pennsylvania and maintains a local mailing address of 6051 Wallace Road Extension, 3rd Floor, Wexford, PA 15090.

C. At all times relevant to the matters set forth in this Consent Order and Agreement, ETC is the “owner” of, the “operator” of, and the “person” that is constructing and attempting to complete the construction of the “Revolution Pipeline” and the “Revolution Pipeline Project,” as those terms are defined herein or in Section 1 of The Clean Streams Law, 35 P.S. § 691.1 (defines “person”); Section 3 of the Dam Safety Act, 32 P.S. §693.3 (defines “operator”); Section 3202 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3202 (defines “person”); and, Sections 102.1 and 105.1 of the Regulations, 25 Pa. Code § 102.1 (defines “person” and “operator”) and 25 Pa. Code § 105.1 (defines “owner” and “person”).

Factual Background

D. The Revolution Pipeline is a gathering pipeline that is primarily intended to carry natural gas from locations in Butler, Beaver, Allegheny, and Washington Counties to the Revolution Cryogenic processing facility in Smith Township, Washington County (“Revolution Pipeline”). The project of constructing, stabilizing, and placing the Revolution Pipeline into operation is named the Revolution Pipeline Project (“Revolution Pipeline Project”).

E. The entirety of the Revolution Pipeline Project is located in Jackson Township, Butler County; New Sewickley, Conway, Center, Raccoon, and Independence Townships, Beaver County; Findlay Township, Allegheny County; and Robinson and Smith Townships, Washington County. The Revolution Pipeline Project is approximately 40.5 miles in length and covers 690 acres.

F. The natural gas produced from geological formations in Pennsylvania may include methane, natural gas liquids (natural liquids may include propane, butane, and pentane, “NGLs”; methane and NGLs are referred to as “Natural Gas”), and other fluid commonly known as brine (“Brine”). ETC has represented that the Revolution Pipeline has been designed to keep

product transported within the pipeline in a vapor phase during normal operating conditions by removing liquids other than hydrocarbons at upstream processing and compressor facilities by filtration and triethylene glycol dehydration to a market quality moisture content.

G. Earth disturbances necessary for the construction of the Revolution Pipeline Project are subject to Erosion and Sedimentation Control General Permit authorizations and associated modifications, numbers ESG 00007160001, ESG 000716001, and ESG 00 007 17 0002, and ESG070419010-00 and ESG070419010-01, as amended (collectively, “Department Permits”).

Steep Side Slopes

H. On January 3, 2020, pursuant to Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20; Sections 5, 402, and 610 of The Clean Streams Law, 35 P.S. §§ 691.5, 691.402, and 691.610; Section 3253 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3253; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, the Department and ETC entered into a Consent Order and Agreement (“Consent Order”) regarding the Revolution Pipeline Project.

I. The Consent Order incorporated by reference a December 13, 2019 letter from the Department (“Letter”) to ETC. ETC agreed that “the terms and conditions of the Letter constitute an Order of the Department,” and that “ETC shall fully comply with the terms and conditions of the Letter in accordance with the schedule set forth therein.” (Consent Order, p. 13, ¶ 3.a.iii.).

J. The Letter addresses slopes and hillsides where there is a higher risk of instability including slope failures (“Steep Slopes”) within the Revolution Project:

... are gradients of 40 percent or steeper where the pipeline is oriented parallel to contour (side slope) or oblique to contour as identified in Section 7 of the Landslide Plan.

K. The Letter required ETC to submit designs that

[d]emonstrate that the pipeline is benched into bedrock or dense, weathered rock or dense residual soil and that the pipeline is not supported on fill or colluvium. In order to fulfill this demonstration ETC shall review all past construction records and perform drive probes, hand augers and/or soft digging methods or other methods approved in writing by the Department at adequate and sufficient locations to verify competent bearing soils. (Ex. A, p. 4, ¶ 6.)

L. The Letter also required ETC to submit the results of its investigation by no later than April 1, 2020 and “[p]ropose a design that achieves a factor of safety of 1.5 unless ETC can demonstrate to the satisfaction of the Department that it cannot meet a factor of safety of 1.5 using generally accepted geotechnical engineering practices.” (Ex. A, p. 4, ¶ 6.)

M. In the April 1, 2020 submission required by the Letter (“April 2020 Submission”), ETC described the stability of the Steep Slopes as follows:

During our review of the construction photographic record, survey data, and drive probe and hand auger exploration results, we did not observe evidence of pipe embedment in loose, soft, or otherwise unsuitable bearing materials from a slope stability perspective in the referenced steep side slope areas. As such, it is our opinion that there is low risk of slope movement that would affect the pipeline integrity. . . .

[I]t is GeoEngineers’ [*i.e.*, ETC’s consultant] opinion that drive probe and other hand exploration methods provide useful indications of soil consistency and stratigraphy, but do not provide reliable strength data for numerical modeling purposes. . . .

In addition, mechanical explorations would require construction of access roads and water crossings, which would disturb otherwise stable slopes and increase the risk of slope instability and delivery of sediment to the waters of the Commonwealth. Provided the steep side slopes continue to remain stable, it is our opinion that the risk of slope destabilization and

potential delivery of sediment to the waters of the Commonwealth is not warranted.

(April 2020 Submission, Memorandum to ETC Northeast Pipeline, LLC, p. 4.)

N. The Department determined that the April 2020 Submission did not include a proposal for “a design that achieves a factor of safety of 1.5” or a demonstration “that [ETC] cannot meet a factor of safety of 1.5 using generally accepted geotechnical engineering practices.”

O. As a result, the Department determined that the April 2020 Submission also did not include the Stability Analyses for all of the Steep Slopes as required by Paragraph 6.a. of the Letter.

Preparedness, Prevention and Contingency Plan

P. Pursuant to 25 Pa. Code §§ 78a.55(a), 78a.68, 102.1, and 102.5(l), ETC is required to prepare, implement, and have available upon request by the Department, a Preparedness, Prevention and Contingency Plan for the Revolution Pipeline Project that describes, *inter alia*, how ETC will safely transport and remove fuels, chemicals, petrochemicals, and/or hazardous materials onto, on, or from the Revolution Pipeline Project. On May 1, 2019, ETC provided its Preparedness, Prevention and Contingency Plan to the Department (“PPC Plan”).

Q. Section 5.2.2 of ETC’s PPC Plan stated that if ETC believes the integrity of the Revolution Pipeline could be at risk from an existing slip or slide location, or a new slide is observed, the ETC Emergency Manager will consult with “Gas Control” to, *inter alia*, determine if the pipeline should be shut down, and the contents purged. The PPC Plan only stated the following regarding purging: “The determination regarding shutdown and purging of the

pipeline will be made in accordance with, and pursuant to, state and federal pipeline safety regulations.” (PPC Plan, p. 14.)

R. The Department determined that ETC’s PPC Plan did not include safeguards against creating a combustible atmosphere during purging, for containing releases to the soil or ground or surface waters of the Commonwealth during purging, or that account for weather and/or atmospheric conditions when selecting the manner of purging.

S. The Department determined that ETC’s proposed PPC Plan failed to explain how Natural Gas or fluids, would be removed from the Revolution Pipeline in a safe and environmentally protective manner in the event of a landslide or other earth movement that could separate, rupture, or otherwise compromise the integrity of the Revolution Pipeline.

T. On June 3, 2019, the Department notified ETC that the PPC Plan was deficient and did not comply with the requirements of the Regulations, stating that “ETC’s failure to prepare and implement a Preparedness, Prevention and Contingency Plan that safely removes petrochemicals it is storing, using, or transporting within the charged Line is a violation of 25 Pa. Code §§ 78a.55(a) and 102.5(1).”

U. As of November 11, 2020, the Department determined that ETC had not submitted a revision to the PPC Plan to the Department that described how the contents of the Revolution Pipeline would be removed in a safe and environmentally protective manner prior to permanent stabilization in the event of a leak or release caused by a landslide or otherwise.

Department’s November 11, 2020 Order

V. On October 20, 2020, and again on November 3, 2020, ETC stated that it intended to put the Revolution Pipeline into service (i.e., flowing Natural Gas through the Revolution

Pipeline) in the near future without specifying its intended date or time frame to put the Revolution Pipeline into service.

W. On November 11, 2020, the Department issued an Administrative Order to ETC pursuant to Section 3253 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3253; Sections 5, 316, 402, and 610 of The Clean Streams Law, 35 P.S. §§ 691.5, 691.316, 691.402, and 691.610; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17 (“Order”).

X. The Order directed ETC to not place or flow Natural Gas, or other flammable gases, or Brine in any part of the Revolution Pipeline located in the unstable slope areas identified in the Order until the Department approved the Stability Analyses as required by Paragraph 6.a. of the Letter and the Department determined that the Stability Analyses and the Permanent Stabilization Plan have been fully implemented by ETC.

Y. The Order also directed ETC to develop and submit an adequate revision to the PPC Plan that addressed how Natural Gas, other flammable gases, petrochemicals, or Brine will be safely removed from the Revolution Pipeline, and/or prevented from reaching the environment in the event of a leak or release or catastrophic incident, such as a landslide that separates or ruptures, or risks the separation or rupture of, the Revolution Pipeline.

Z. ETC filed an appeal of the Order with the Environmental Hearing Board on December 8, 2020. The appeal is docketed at EHB Docket No. 2020-110-R.

AA. Following the filing of the appeal, ETC provided two initial geotechnical reports in December 2020 that were subsequently revised. The revised geotechnical reports were submitted to the Department on January 22, 2021 (“Revised Slope Stability Analysis Reports”). The Revised Slope Stability Analysis Reports address the slope areas identified in the Order.

ETC also submitted a revised PPC Plan for Department review on December 4, 2020 (“Revised PPC Plan”).

BB. ETC has demonstrated that all Steep Slopes¹ areas identified in the Order currently meet a factor of safety of 1.5 with the groundwater table as it is currently represented in the Revised Slope Stability Analysis Reports. Based upon Department review of the Revised Slope Stability Analysis Reports, the Department has determined that drainage measures are necessary at Steep Slope 1 and either drainage measures or groundwater monitoring measures are necessary at Steep Slope 5 to ensure that these areas maintain a 1.5 factor of safety for slope stability on a long-term basis to address any potential rise of the groundwater table at those locations. In addition, ETC has installed three manual inclinometers in the vicinity of Penny Hollow Road (between stations 1214+00 and 1218+00, the “Penny Hollow Site”) to monitor slope stability through measurement of ground movement. Measuring slope movement at the Penny Hollow Site provides an indication of slope stability. The Department has determined that these additional measures are necessary for long-term continuous monitoring of slope stability at the Penny Hollow Site and the Revolution Pipeline at that location.

CC. Based upon Department review of ETC’s Revised PPC Plan, the Department has determined that the Revised PPC Plan adequately addresses how Natural Gas and other fluids will be safely removed from the Revolution Pipeline, and/or prevented from reaching the environment in the event of a leak or release or catastrophic incident, such as a landslide that separates or ruptures, or risks the separation or rupture of, the Revolution Pipeline.

DD. ETC has agreed to install additional drainage measures at Steep Slope 1 and either install additional drainage measures or undertake additional groundwater monitoring at Steep

¹ Terms not defined herein shall have the same meaning as defined in the Compliance Order or the January 3, 2020 Consent Order and Agreement or the exhibits thereto.

Slope 5, and undertake additional measures for long-term continuous monitoring of slope stability and pipeline strain of the Revolution Pipeline at the Penny Hollow Site.

EE. Based upon the Revised Slope Stability Analysis Reports, ETC's commitment to install additional drainage measures at Steep Slope 1 and either install additional drainage measures or undertake additional groundwater monitoring at Steep Slope 5, and ETC's commitment to long-term continuous monitoring at the Penny Hollow Site, DEP will close the Order, and ETC will be permitted to move forward with putting the Revolution Pipeline into service (i.e., flowing Natural Gas through the pipeline) upon the full execution of this Consent Order and Agreement by all parties and ETC's termination of the appeal docketed at EHB Docket No. 2020-110-R as provided for below in Paragraphs 3.e. and f.

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by ETC as follows:

1. Authority. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Section 3253 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3253; Sections 5, 316, 402, and 610 of The Clean Streams Law, 35 P.S. §§ 691.5, 691.316, 691.402, and 691.610; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

a. ETC agrees that the findings in Paragraphs A through EE are true and correct and, in any matter or proceeding involving ETC and the Department, ETC shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

3. Corrective Action.

a. Within 30 days of the execution of this Consent Order and Agreement, ETC shall submit a minor permit amendment for the installation of drainage measures at Steep Slope 1 and either submit a groundwater monitoring plan or a minor permit amendment for the installation of drainage measures at Steep Slope 5 to ensure permanent slope stability and account for any potential rise in the groundwater table at those locations. The permit amendment(s) shall include a schedule to install the approved drainage measures and commence implementation of the groundwater monitoring plan, if any.

b. Within 60 days of execution of this Consent Order and Agreement, ETC shall do the following:

i. Submit to the Department a revised permanent stabilization plan for the Penny Hollow Site to provide for continuous monitoring of impacts from potential slope instability on the Revolution Pipeline in, around, and between stations 1214+00 and 1218+00 using, at least, two sets of strain gauges welded to the Revolution Pipeline. Each set should consist of four strain gauges installed at locations strategically located to monitor strain, on the circumference of the Revolution Pipeline. These two sets of strain gauges shall be set between station numbers 1214+00 and 1218+00 at locations that are optimal for detecting strain on the Revolution Pipeline caused by slope instability. These strain gauges shall instantaneously transmit information to ETC regarding strain using a cellular network or other electronic communication system. If two strain gauges within any set of strain gauges fail within the first twelve months of installation, ETC shall replace the failed strain gauges within sixty (60) days,

unless the failure occurs within sixty (60) days prior to end of the twelve-month period, in which case ETC shall review the nature of the failure, present the failure findings in writing to the Department, and discuss the need to replace the failed strain gauges.

ii. Submit to the Department a revised permanent stabilization plan for the Penny Hollow Site ETC to provide for continuous monitoring of the stability of the Penny Hollow Site and any potential impacts to the Revolution Pipeline between station numbers 1214+00 and 1218+00 by converting the three existing manual inclinometers between station numbers 1214+00 and 1217+00 to have multiple continuous probes to a depth of 10 feet in competent material (the depth at which there is no measurable movement in the inclinometer) that shall transmit information to ETC regarding earth movement instantaneously, using a cellular network or other electronic communication system (“Smart Inclinometers”). The submission shall provide that the Smart Inclinometers shall be operated and maintained.

iii. Submit to the Department a revised permanent stabilization plan for the Penny Hollow Site to incorporate a comprehensive monitoring and reporting plan addressing the provisions of subparagraphs 3.b.i. and ii. above including, but not limited to identification of actionable levels, and response actions and reporting requirements to the Department that ETC shall undertake should the strain gauges, inclinometers, and/or the Smart Inclinometers report, show, or indicate strain on the Revolution Pipeline or earth movement at the Penny Hollow Site.

iv. From the date of this Consent Order and Agreement and until the Smart Inclinometers are installed, ETC shall monitor the three inclinometers between station numbers 1214+00 and 1217+00 daily to identify whether the hillside is showing signs of instability. In the event any inclinometer shows movement of 0.25 inches or greater from the

date of this Consent Order and Agreement and until the Smart Inclinometers are installed, ETC shall immediately notify the Department.

c. Upon approval of a permit amendment, any Chapter 105 authorizations, and the permanent stabilization plan for the Penny Hollow Site as required in subparagraph 3.b. (“Penny Hollow Monitoring and Reporting Plan”), ETC shall fully implement the requirements therein within 180 days of approval unless otherwise approved in writing by the Department. Beginning on January 1, 2025, ETC may submit a request in writing to the Department to modify the Penny Hollow Monitoring and Reporting Plan (“Penny Hollow Modification Request”). The Department will make its best efforts to expeditiously review the Penny Hollow Modification Request and approve or deny such request within 180 days from ETC’s submission. The Department’s approval or denial of the Penny Hollow Modification Request shall constitute a final action under 25 Pa. Code § 1021.2 and an adjudication under 2 Pa. C.S. § 101.

d. ETC shall address any deficiencies identified by the Department in the submission(s) required under this paragraph within fourteen (14) calendar days of its receipt of a notice of the deficiency.

e. Within five (5) days of the effective date of this Consent Order and Agreement, ETC shall settle the appeal docketed at 2020-110-R through a “Homes of Distinction” settlement in a form substantially similar as the form attached hereto as Exhibit A.

f. Upon the submission of Exhibit A to the Environmental Hearing Board, ETC may place the Revolution Pipeline into service, subject to any other requirements of law or other federal, state, or local regulatory agencies and ETC’s compliance with this Consent Order and Agreement.

g. ETC shall provide written notification to the Department at least 48 hours before placing Natural Gas into the Revolution Pipeline at any location along its length.

4. Civil Penalty Settlement. ETC consents to the assessment of a civil penalty of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000). This payment is in settlement of the Department's claim for civil penalties for the violations set forth in the Order. The payment shall be made within five (5) business days by corporate check or the like made payable to the **Commonwealth of Pennsylvania** and sent to the individual identified below in Paragraph 10. In the alternative, ETC may make payment via an electronic transfer of funds. The Department will provide instructions for electronic transfer of funds at ETC's request.

5. Stipulated Civil Penalties.

a. In the event ETC fails to comply in a timely manner with any term or provision of this Consent Order and Agreement or any compliance deadline set forth herein, ETC shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount of \$1,000.00 per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month and shall be forwarded as described in Paragraph 4 (Civil Penalties) above.

c. Any payment under this paragraph shall neither waive the ETC's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel ETC's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only ETC's liability for civil

penalties arising from the violations of this Consent Order and Agreement for which the payment is made.

d. Stipulated civil penalties shall be due automatically and without notice.

6. Additional Remedies.

a. In the event ETC fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph and Paragraph 5 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties by the Department for the violation for which the stipulated penalty is paid.

7. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. ETC reserves the right to challenge any action which the Department may take to require those measures.

8. Liability of Operator. ETC shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officer's agents, employees, or contractors. Except as provided in Paragraph 9(c), ETC also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

9. Transfer of Site.

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Site or any part thereof.

b. If ETC intends to transfer any legal or equitable interest in the Site which is affected by this Consent Order and Agreement, ETC shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Department of such intent.

c. Upon ETC's request, the Department in its sole discretion may agree to modify or terminate ETC's duties and obligations under this Consent Order and Agreement following transfer of the Site. ETC waives any right that it may have to challenge the Department's decision in this regard.

10. Correspondence with Department. All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

April Weiland, Environmental Group Manager
Pennsylvania Department of Environmental Protection
Southwest District Oil and Gas Operations
Cambria District Office
286 Industrial Park Road
Ebensburg, PA 15931-4119
814-472-1820
apweiland@pa.gov

11. Correspondence with ETC. All correspondence with ETC concerning this Consent Order and Agreement shall be addressed to:

Eric Tkacik
ETC Northeast Pipeline, LLC
6051 Wallace Run Extension, 3rd Floor

Wexford, PA 15090
878-332-2210
Eric.Tkacik@energytransfer.com

ETC shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. Severability. The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

13. Entire Agreement. This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

14. Attorney Fees. The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

15. Modifications. No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

16. Titles. A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

17. Decisions Under Consent Order. Except for any Department approval, denial, or rejection of any submission as provided in Paragraph 3, any decision which the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which ETC may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

18. Termination. The obligations of Paragraphs 3 and 9 shall terminate when the Department determines that ETC has complied with the requirements of Paragraphs 3 and 4, above, and paid any stipulated penalties due under Paragraph 5, above.

19. Execution of Agreement. This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

20. Force Majeure.

a. In the event that ETC is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, or other circumstance beyond ETC's control and which ETC, by the exercise of all reasonable diligence, is unable to prevent, then ETC may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond ETC's control. ETC's economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. ETC shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) working days in

writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by ETC to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. ETC's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by ETC and other information available to the Department. In any subsequent litigation, the ETC shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

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IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of ETC certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of ETC; that ETC consent to the entry of this Consent Order and Agreement as an Order of the Department; that ETC hereby knowingly waive any right to a hearing under the statutes referenced in this Consent Order and Agreement; and that ETC knowingly waive their right to appeal this Consent Order and Agreement, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature by ETC attorney certifies only that the agreement has been signed after consulting with counsel.

FOR ETC NORTHEAST PIPELINE, LLC:



Sankar Raj Devarpiran
Senior Vice President

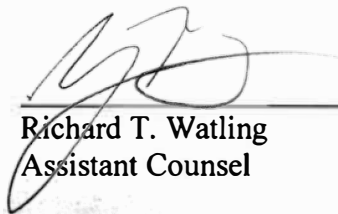


Laura Sutton
Chief Counsel

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:



Daniel F. Counahan
District Oil and Gas Manager
Southwest District Oil and Gas Operations



Richard T. Watling
Assistant Counsel

Exhibit A

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD**

ETC NORTHEAST PIPELINE, LLC	:	
	:	
v.	:	EHB Docket No. 2020-110-R
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION	:	
	:	

STIPULATION FOR SETTLEMENT

WHEREAS, on December 8, 2020, Appellant ETC Northeast Pipeline, LLC filed a Notice of Appeal with the Environmental Hearing Board (“Board”), challenging an Order issued by Appellee Commonwealth of Pennsylvania, Department of Environmental Protection (the “Department”), dated November 11, 2020 (“Order”), in connection with the Revolution Pipeline;

WHEREAS, on February 26, 2021, the Department and ETC Northeast Pipeline, LLC entered into a Consent Order and Agreement which requires ETC Northeast Pipeline, LLC to settle the above-captioned appeal through a “Homes of Distinction” settlement;

WHEREAS, Appellant wishes to preserve the factual and legal issues raised in its appeal should the Department seek to take any future action, including but not limited to a permitting action, an enforcement action, or an action for civil or criminal penalties;

WHEREAS, the Department does not object to Appellant’s preservation of the issues raised in this appeal in the event that the Department takes any future action, including but not limited to a permitting action, an enforcement action, or an action for civil or criminal penalties;

WHEREAS, the parties agree to bear their respective attorney’s fees, expenses, and costs associated with this matter; and

NOW, THEREFORE, the parties stipulate to the entry of the following Order, if satisfactory to the Board, resolving this appeal:

The appeal of Appellant ETC Northeast Pipeline, LLC is hereby dismissed without prejudice to the rights of Appellant to raise any and all factual or legal issues raised or otherwise preserved in the appeal docketed at EHB Docket No. 2020-110-R in any challenge to an action of the Department, including but not limited to a permitting action, an enforcement action, or an action for civil or criminal penalties, related to the circumstances referenced in Appellant's Notice of Appeal regarding the Order. As stipulated by the parties, each party shall bear their respective attorney's fees, expenses, and costs associated with this matter.

Respectfully submitted,

Dated: _____, 2021

Robert D. Fox, Esq.
Todd D. Kantorczyk, Esq.
Thomas M. Duncan, Esq.
MANKO, GOLD, KATCHER & FOX, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004
*Attorneys for Appellant,
ETC Northeast Pipeline, LLC*

Dated: _____, 2021

Richard T. Watling, Esq.
Forrest M. Smith, Esq.
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Nels J. Taber, Esq.
Office of Chief Counsel
400 Market Street, 9th Floor
Harrisburg, PA 17101
Attorneys for the Department

**COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD**

ETC NORTHEAST PIPELINE, LLC	:	
	:	
v.	:	EHB Docket No. 2020-110-R
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION	:	
	:	

ORDER

AND NOW, this ___ day of _____, 2021, in consideration of the parties' Stipulation for Settlement, a copy of which is attached to and made a part of this Order, IT IS ORDERED that the appeal of Appellant ETC Northeast Pipeline, LLC is hereby dismissed without prejudice to the rights of Appellant to raise any and all factual or legal issues raised or otherwise preserved in the appeal docketed at EHB Docket No. 2020-110-R in any challenge to an action of the Department, including but not limited to a permitting action, an enforcement action, or an action for civil or criminal penalties, related to the circumstances referenced in Appellant's Notice of Appeal regarding the November 11, 2020 Order. As stipulated by the parties, each party shall bear their respective attorney's fees, expenses, and costs associated with this matter. The docket is marked settled and this proceeding terminated.

ENVIRONMENTAL HEARING BOARD

THOMAS W. RENWAND
Chief Judge and Chairman

DATED: _____, 2021

c: For the Commonwealth of PA, DEP:

Nels J. Taber, Esquire

Richard T. Watling, Esquire

Forrest M. Smith, Esquire

(via electronic filing system)

For Appellants:

Robert D. Fox, Esquire

Todd D. Kantorczyk, Esquire

Thomas M. Duncan, Esquire

(via electronic filing system)

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD**

ETC NORTHEAST PIPELINE, LLC	:	
	:	
v.	:	EHB Docket No. 2020-110-R
	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving via the Board’s electronic filing system the foregoing Stipulation for Settlement upon the person listed below in accordance with 25 Pa. Code § 1021.34.

Nels J. Taber, Esq.
Office of Chief Counsel
400 Market Street, 9th Floor
Harrisburg, PA 17101
ntaber@pa.gov

Richard T. Watling, Esq.
Forrest M. Smith, Esq.
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745
rwatling@pa.gov

Attorneys for the Department

Dated: _____, 2021 _____