



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Southwest Regional Office

December 20, 2018

Pam Alley
Shell Pipeline Company LP
150 North Dairy Ashford
Houston, TX 77079

Re: Chapter 102 Erosion and Sediment Control Permit
Falcon Ethane Pipeline System
Permit No. ESG 0000 717 0003
North Fayette and Findlay Townships, Allegheny County
Independence, Raccoon, Greene and Potter Townships, Beaver County
Chartiers, Mount Pleasant and Robinson Townships, Washington County

Dear Ms. Alley:

Under the authority of Pennsylvania's Clean Streams Law, the Department of Environmental Protection (DEP) hereby approves your application for an Erosion and Sediment Control Permit for the Falcon Ethane Pipeline project. DEP made a determination that the earth disturbance activities proposed in your Notice of Intent (NOI) for coverage under the ESCGP-2 general permit are most appropriately addressed through an individual permit and has therefore treated your NOI submission as an application for an individual permit.

Your permit is enclosed. The latest versions of the Notice of Intent (NOI) and all supporting documents, including but not limited to the Erosion and Sediment Control (E&S) Plan and Post-Construction Stormwater Management (PCSM) Plan, are incorporated into this approval. You must comply with all terms and conditions of the permit in accordance with Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

The permit is effective on December 20, 2018 and will expire on December 19, 2023. If stormwater discharges associated with the project are expected to continue beyond the expiration date of your permit, you must apply to renew your coverage at least 180 days prior to the expiration date.

Please review the entire permit and the enclosed attachments carefully and contact this office if you have any questions. In addition, we direct your attention to the following requirements of the permit:

- In accordance with 25 Pa. Code § 102.5(h), operators who are not the permittee shall be co-permittees. Please be advised that once an operator (contractor) has been selected for the project, the permit must either be transferred to the operator or the operator must be made a co-permittee and enter into an agreement with the permittee. Please use the enclosed Transferee/Co-Permittee Application form to transfer the permit or to add a co-permittee. This form must be received by this office at least 30 days prior to the proposed transfer date or addition of a co-permittee.
- **Please be advised that you are not authorized to commence earth disturbance activity until a pre-construction meeting is held in accordance with Part C.VI of the permit.** The permittee shall contact

DEP to schedule the pre-construction meeting and provide at least seven (7) days' notice of the pre-construction meeting to all invited attendees, unless otherwise approved by DEP in writing. The permittee, co-permittees, operators, and licensed professionals, or designees responsible for the earth disturbance activity, including implementation of E&S, PCSM, and PPC Plans and critical stages of implementation of the approved PCSM Plan, shall attend the pre-construction meeting(s). Permittees, co-permittees, operators and licensed professionals are responsible for ensuring that all activities on the site comply with the requirements of the permit.

- You must conduct inspections of all erosion and sediment control best management practices (BMPs) on a weekly basis and after each measurable stormwater event to ensure effective and efficient operation. The Visual Site Inspection Report Form (3800-FM-BCW0271d) is enclosed along with instructions. This form (or an equivalent electronic form providing the same information) must be used to document the required site inspections and all BMP repair, replacement and maintenance activities.
- For any property containing a PCSM BMP, the permittee or co-permittee must record an instrument with the recorder of deeds which will assure disclosure of the PCSM BMP and the related obligations in the ordinary course of a title search of the subject property. An example PCSM Instrument Filing Notice is enclosed for your reference. The recorded instrument must identify the PCSM BMP, provide for necessary access related to long-term operation and maintenance (O&M) for PCSM BMPs, and provide notice that the responsibility for long-term O&M of the PCSM BMP is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees. Unless a later date is approved by DEP in writing, the permittee shall record an instrument within 45 days from the date of issuance of this permit. The permittee shall provide the county conservation district and DEP with the date and place of recording along with a reference to the docket, deed book or other record, within 90 days from the date of issuance of this permit, unless a later date is approved by DEP in writing.
- If there are any changes to the PCSM BMPs or long-term operation and maintenance plan after the initial instrument recording and prior to permit termination, the permittee(s) will need to amend the initial recorded instrument at the recorder of deeds office prior to permit termination. Further note, most recorder of deeds offices require that the landowner (at the time of actual recording) sign the instrument to be recorded. If the landowner changes and an amended instrument needs to be recorded, the recorder of deeds office will likely require the new landowner's signature on the amended instrument.
- The Notice of Termination (NOT) form is also enclosed and must be completed and filed when construction activities have been completed and permanent stabilization has been achieved. The NOT must identify the responsible person(s) for the long-term O&M of the PCSM BMPs. Please be advised that the permittee and any co-permittees remain responsible for compliance with the permit terms and conditions including the long-term operation and maintenance of all PCSM BMPs for this project site until the NOT has been filed and approved in writing.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board), pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street

P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Environmental Hearing Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in Braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

If you have any questions, please contact Howard Kellick, P.E. at hkellick@pa.gov or 412.442.4074.

Sincerely,



Dana Drake, P.E.
Environmental Program Manager
Waterways & Wetlands Program

cc: Natalie Shearer, AECOM
Allegheny County Conservation District
Beaver County Conservation District
Washington County Conservation District
North Fayette Township, Findlay Township, Independence Township, Raccoon Township,
Greene Township, Potter Township, Chartiers Township, Mount Pleasant Township, and
Robinson Township

Enclosures: Permit No. ESG 0000 717 0003
E&S Plan
PCSM Plan
Visual Site Inspection Report Form and Instructions
Transferee/Co-permittee Application Form
Notice of Termination Form
PCSM Instrument Filing Notice

**EROSION AND SEDIMENT CONTROL (E&S) PERMIT
FOR EARTH DISTURBANCE ASSOCIATED WITH OIL AND GAS EXPLORATION,
PRODUCTION, PROCESSING, OR TREATMENT OPERATIONS
OR TRANSMISSION FACILITIES**

E&S PERMIT NUMBER: ESG 0000 717 0003

In compliance with the provisions of Pennsylvania's Clean Streams Law, as amended, 35 P.S. §§ 691.1 *et seq.*, 58 Pa.C.S. §§ 3201-3274 (2012 Oil and Gas Act) and regulations promulgated pursuant thereto, including 25 Pa. Code Chapters 78.93 and 102, and Sections 1905-A, 1917-A and 1920-A of the Administrative Code of 1929, 71 P. S. §§ 510-5, 510-17 and 510-20, earth disturbances associated with oil and gas activities are authorized for the project identified below, in accordance with the application submitted to the Department of Environmental Protection (DEP) and accompanying plans and additional information, as revised, subject to the requirements specified herein.

Project Name and Location(s)

**Falcon Ethane Pipeline System
Counties: Allegheny, Beaver, and Washington**

Permittee Name and Address

**Shell Pipeline Company LP
150 North Dairy Ashford
Houston, TX 77079**

**THIS PERMIT SHALL BECOME EFFECTIVE ON December 20, 2018
AND SHALL EXPIRE ON December 19, 2023.**

The authority granted by this permit is subject to the following further qualifications:

1. This permit is issued for earth disturbances associated with oil and gas activities subject to the use of erosion and sediment control (E&S) and post-construction stormwater management (PCSM) best management practices (BMPs) to control discharges composed entirely of stormwater to surface waters identified in the application. Authorization to discharge is subject to implementation of the plans and additional information submitted as part of the application. This permit incorporates by reference the application and any other attachments, reports, plans, plan drawings, supplements, and other materials submitted by the applicant, as revised.
2. Any construction or earth disturbance activities that are not presented on the plans submitted in support of the application are not authorized by the permit. A request to modify this permit must be submitted by the permittee and approved by DEP before the permittee may commence any construction or earth disturbance activities that are not included in the information submitted in support of the application.
3. Earth disturbance activities conducted in accordance with the terms and conditions herein may commence on the effective date of this permit or the date other necessary permits and authorizations are obtained, whichever occurs later.
4. Coverage under this permit may be extended by DEP or an authorized conservation district if a timely and administratively complete application for renewal is submitted at least 180 days prior to the permit expiration date.
5. DEP may terminate this permit prior to the expiration date upon notice. The permittee may request termination of the permit prior to the expiration date through the submission of an acceptable Notice of Termination (NOT).
6. No condition of this permit shall release the permittee(s) from any responsibility or requirement under Pennsylvania's statutes or regulations or local ordinances.

DATE PERMIT ISSUED: December 20, 2018

ISSUED BY: 

Dana Drake, P.E.
Environmental Program Manager
Waterways and Wetlands Program
DEP Southwest Regional Office

PART A

EFFLUENT LIMITATIONS, MONITORING, AND REPORTING REQUIREMENTS

I. DEFINITIONS

Accelerated erosion – The removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur because of the natural process alone.

BMPs – Best Management Practices – Activities, facilities, measures, planning, or procedures used to minimize accelerated erosion and sedimentation and manage stormwater to protect, maintain, reclaim and restore the quality of waters, and existing and designated uses of waters of the Commonwealth before, during, and after earth disturbance activities.

Conservation District – A Conservation District, as defined in Section 3(c) of the Conservation District Law (3 P.S. § 851(c), as amended) that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the erosion, sediment, and stormwater management program in the Commonwealth of Pennsylvania (also referred to as “authorized conservation district”).

Co-Permittee/Permittee – Person(s) identified in this permit as responsible for the discharges of stormwater associated with construction activity who is jointly and individually responsible together with the permittee for compliance with all conditions of this permit and applicable laws.

Critical stages – The installation of underground treatment BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by the Department or the conservation district.

Earth disturbance activity – A construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

Erosion – The natural process by which the surface of the land is worn away by water, wind, or chemical action.

E&S Plan – Erosion and Sediment Control Plan– A site-specific plan consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during, and after earth disturbance activities.

Forested riparian areas – Areas that consist of permanent vegetation that is predominantly native trees, shrubs, and forbs along surface waters.

Licensed professional – Professional engineers, landscape architects, geologists and land surveyors licensed to practice in the Commonwealth.

Long-term operation and maintenance – The routine inspection, maintenance, repairs, or replacements, of a BMP to ensure proper function for the duration of time that the BMP is needed.

Municipality – A county, city, borough, town, township, school district, institution or authority or another public body created by or pursuant to State Law. For the purposes of this definition, town includes an incorporated town.

NOT – Notice of Termination – A request, on a form provided by the Department, to terminate coverage under an erosion and sedimentation control permit for earth disturbances associated with oil and gas exploration, production, processing or treatment operations or transmission facilities.

Oil and gas activities - Earth disturbance associated with oil and gas exploration, production, processing or treatment operations or transmission facilities.

Operator – A person who has one or more of the following:

- Oversight responsibility of earth disturbance activity on a project site or a portion thereof, who has the ability to make modifications to the E&S Plan, PCSM Plan, or site specifications.

- Day-to-day operational control over earth disturbance activity on a project site or a portion thereof to ensure compliance with the E&S Plan or PCSM plan.

Owner – A person or persons who hold legal title to the land subject to construction activity. This term also includes the person(s) who held legal title to the land subject to construction activity at the time such activity was commenced on a site.

PCSM / SR Plan – Post-Construction Stormwater Management Plan / Site Restoration – A site-specific plan consisting of both drawings and a narrative that identifies BMPs to manage changes in stormwater runoff volume, rate, and water quality after earth disturbance activities have ended and the project site is permanently stabilized.

Permanent stabilization – Long-term protection of soil and water resources from accelerated erosion.

Person – Any operator, individual, public or private corporation, partnership, association, municipality or political subdivision of this Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; Department agency or instrumentality of State, Federal or local government, or an agent or employee thereof; or any other legal entity. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment or both, the term "person" shall not exclude the members of an association and the directors, officers, or agents of a corporation.

Point Source - Any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, Concentrated Animal Feeding Operation, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged.

Post-construction stormwater – Stormwater associated with a project site after the earth disturbance activity has been completed and the project site is permanently stabilized.

PPC Plan – A written plan that identifies an emergency response program, material and waste inventory, spill and leak prevention and response, inspection program, housekeeping program, security and external factors, and that is developed and implemented at the construction site to control potential discharges of pollutants other than sediment into waters of the Commonwealth.

Project site – The entire area of activity, development, lease or sale including:

- The area of the earth disturbance activity.
- The area planned for the earth disturbance activity.
- Other areas which are not subject to earth disturbance activity.

Stabilization – The proper placing, grading, constructing, reinforcing, lining, and covering of soil, rock, or earth to ensure their resistance to erosion, sliding, or other movement.

Stormwater – Runoff from precipitation, snow melt runoff, surface runoff and drainage.

Surface Waters – Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process.

Total Maximum Daily Load (TMDL) – The sum of individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality and a margin of safety expressed in terms of mass per time, toxicity or other appropriate measures.

Transferee – Person(s) identified through the co-permittee/transferee form as having new responsibility for the discharges of stormwater during construction activities and responsibility for compliance with all conditions of this permit and all applicable laws for discharges of stormwater during the earth disturbance activity.

Wasteload Allocation (WLA) – The portion of a surface water's loading capacity that is allocated to existing and future point source discharges.

Waters of the Commonwealth – Rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

Wetlands – Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

II. EFFLUENT LIMITATIONS

- A. BMPs – Except as required by 25 Pa. Code §102.11(c), this permit establishes narrative performance-based effluent limitations in the form of BMPs identified in E&S Plans, PCSM Plans, and PPC Plans, which control the volume, rate, and quality of stormwater runoff and associated pollutants from being discharged into surface waters, and which replicate pre-construction infiltration and runoff conditions to the maximum extent practicable.
1. Operators of all earth disturbance activities shall implement and maintain E&S and PCSM BMPs and other pollution prevention measures required by this permit to minimize accelerated erosion and sedimentation before, during, and after construction activities.
 2. E&S BMPs shall be implemented to meet the standards and specifications identified in DEP's regulations, including 25 Pa. Code § 102.4 (relating to Erosion and Sediment Control requirements) and 102.11(a)(1) (relating to general requirements), and identified in DEP's *Erosion and Sediment Pollution Control Program Manual* (363-2134-008) as amended and updated, or an approved alternative that is at least as effective.
 3. PCSM BMPs shall be implemented to meet the standards and specifications identified in DEP's regulations, including 25 Pa. Code § 102.8 (relating to PCSM requirements) and 102.11(a)(2), and identified in DEP's *Pennsylvania Stormwater Best Management Practices Manual* (363-0300-002), as amended and updated, or an approved alternative that is as at least as effective.
 4. The E&S Plan, PCSM Plan, and PPC Plan shall identify appropriate BMPs that will be implemented to ensure that existing and designated uses of surface waters are protected and maintained.
 5. The permittee or co-permittee shall maintain the E&S Plan, PCSM Plan, PPC Plan, and other documents required by this permit at the project site and shall make these documents available for review by DEP, an authorized conservation district, or other authorized local, state, or federal agent or representative.
 6. Discharges to surface waters identified as impaired waters must be managed with non-discharge and/or ABACT BMPs.
- B. Applicable Effluent Limitations – Activities covered under this permit must comply with applicable effluent limitations established in 25 Pa. Code Chapters 91, 93, 96, 102, and 105 and any applicable federal law or regulation.
- C. Water Quality Based Effluent Limitations – Water quality based effluent limitations are applicable to activities conducted under this permit when required under applicable state and federal law or regulation to ensure that the water quality standards of the receiving water are attained. Activities conducted under this permit shall not result in a violation of such water quality standards.

III. MONITORING, INSPECTION, AND REPORTING REQUIREMENTS

A. Monitoring.

DEP or the authorized conservation district may require monitoring of stormwater discharges and/or disturbed soils where an increased risk of potential pollution is present, or pollution is suspected to be occurring from an earth disturbance activity subject to this permit. The permittee or co-permittee shall commence such monitoring upon receipt of written notification from DEP or an authorized conservation district in accordance with the instructions set forth in the notification.

B. Test Procedures.

Unless otherwise specified in this permit, the test procedures for the analysis of pollutants shall be those contained in 40 CFR Part 136, alternate test procedures approved pursuant to that part, or other alternate procedures approved by DEP.

C. Visual Inspections.

1. The permittee and co-permittee(s) shall visually inspect the project site weekly, at a minimum, and within 24 hours of the conclusion of each measurable storm event (> 0.25 inch) or the occurrence of snowmelt sufficient to cause a discharge throughout the duration of earth disturbance and until the permittee and co-permittee(s) receive acknowledgement of the NOT from DEP or an authorized conservation district. The visual site inspections shall be conducted by qualified personnel, trained and experienced in erosion and sediment control.
 - a. To determine if a storm event of 0.25 inch or greater has occurred on a project site, the permittee shall either maintain a rain gauge on-site or obtain storm event information from a weather station that is representative of the project site location.
2. Each inspection must include an evaluation of E&S, PCSM and PPC BMPs, as applicable, to determine whether the BMPs are adequate and properly implemented in accordance with the terms of this permit or whether additional control measures are needed. If needed, such measures shall be implemented immediately and DEP and the authorized conservation district shall be notified.
3. Each inspection must include an evaluation of equipment needed to implement E&S, PCSM, and PPC Plans, such as spill response equipment, as applicable.
4. The permittee shall document all visual inspections on an inspection report form that is provided by DEP. In addition to the information required above, the permittee shall document the date, time, name and signature of the person(s) conducting the inspection. All inspection reports shall be made available on the project site for review by DEP and an authorized conservation district.
5. If the permittee discovers conditions in the field that pose a threat of pollution to waters of the Commonwealth, the permittee shall temporarily stabilize the site and cease earth disturbance activities. Thereafter the permittee shall submit a plan and schedule to DEP for review and approval to resume earth disturbance activities while protecting waters of the Commonwealth. The permittee shall implement the plan upon DEP's approval.

D. Licensed Professional Oversight of Critical Stages.

A licensed professional or a designee shall be present on-site and responsible during critical stages of implementation of the approved PCSM Plan. The critical stages may include the installation of underground treatment or storage BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by DEP or the authorized conservation district.

E. Noncompliance Reporting.

Where E&S, PCSM or PPC BMPs are found to be inoperative or ineffective during an inspection or any other time the permittee becomes aware of any incident causing or threatening pollution as described in 25 Pa. Code § 91.33 (relating to incidents causing or threatening pollution), the permittee and co-permittee(s) shall, within 24 hours, contact the Department or authorized conservation district, by phone or personal contact, followed by the submission of a written report within five (5) days of the initial contact. Noncompliance reports shall include the following information:

1. Any condition on the project site which may endanger public health, safety, or the environment, or involve incidents which cause or threaten pollution.
2. The period of noncompliance, including exact dates and times and/or anticipated time when the activity will return to compliance.
3. Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.
4. The date or schedule of dates and identifying remedies for correcting noncompliance conditions.

Additionally, when BMPs are found to be inoperative or ineffective, a licensed professional shall be consulted to ensure BMP adequacy, as designed.

F. Availability of Reports.

Except for data determined to be confidential under Section 607 of the Clean Streams Law, all reports and other information prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate DEP Regional Office or authorized conservation district office.

IV. RECORD KEEPING

A. Recording of Results.

For each measurement or sample taken pursuant to the requirements of this permit, the permittee or co-permittee shall record the following information:

- The exact place, date and time of sampling or measurements.
- The person(s) who performed the sampling or measurements.
- The dates the analyses were performed.
- The person(s) who performed the analyses.
- The analytical techniques or methods used.
- The results of such analyses.

B. Retention of Records.

The permittee and co-permittee(s) shall retain records of all monitoring information including copies of all monitoring and inspection reports required by this permit, all monitoring information (including site log book, calibration and maintenance records) and records of data used to complete the application for this permit, for a period of three years from the date of the termination of coverage under this permit. This period of retention must be extended during the course of any unresolved compliance, enforcement, or litigation or when requested by DEP or an authorized conservation district.

C. Reporting of Monitoring Results.

Visual inspection monitoring results shall be submitted to DEP or an authorized conservation district upon request.

PART B

STANDARD CONDITIONS

I. MANAGEMENT REQUIREMENTS

A. Permit Modification, Termination, or Revocation and Reissuance.

1. If changes to site conditions or the design have the potential to increase runoff, the permittee shall contact DEP to evaluate whether a permit modification is required. The permittee shall manage any increase in stormwater rate, volume or quality by adding appropriate BMPs.
2. This permit may be modified, suspended, revoked, reissued, or terminated during its term for any of the causes specified in 25 Pa. Code Chapter 102 (relating to erosion and sediment control), or to require compliance with updated effluent limitation guidelines, water quality standards, impaired water listings, or new TMDLs, including but not limited to, the following.
 - Violation of any terms or conditions of the permit.
 - Obtaining a permit by misrepresentation or failure to discuss fully all relevant facts.
 - A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
3. The filing of a request by the permittee or co-permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated non-compliance, does not stay any permit condition.
4. Permit modification or revocation will be conducted according to 25 Pa. Code Chapter 102.

B. Notice of Termination.

1. Termination of Coverage.

- a. Upon permanent stabilization of earth disturbance activity under 25 Pa. Code § 102.22(a)(2) (relating to permanent stabilization) and installation of BMPs in accordance with the approved plan prepared and implemented in accordance with 25 Pa. Code §§ 102.4 and 102.8, the permittee and/or co-permittee shall submit a NOT to DEP or an authorized conservation district. The NOT must include:
 - The facility name, address, and location;
 - The operator name and address;
 - The permit number;
 - The reason for the permit termination; and
 - Identification of the persons who have agreed to and will be responsible for the long-term operation and maintenance of PCSM BMPs.
- b. Until the permittee or co-permittee has received written approval of the NOT, the permittee or co-permittee will remain responsible for compliance with the permit terms and conditions, including long-term operation and maintenance of all PCSM BMPs on the project site in accordance with 25 Pa. Code § 102.8(m). DEP or an authorized conservation district may conduct a follow up inspection and approve or deny the NOT within 30 days of receipt in accordance with 25 Pa. Code § 102.7(c) (relating to permit termination).

2. Final Certification.

- a. The permittee shall enclose with the NOT "Record Drawings" along with a final, signed certification statement from a licensed professional, which shall read as follows:

"I (name) do hereby certify pursuant to the penalties of 18 Pa. C.S.A. § 4904 to the best of my knowledge, information, and belief, that the accompanying record drawings accurately reflect the as built

conditions, are true and correct, and are in conformance with Chapter 102 of the rules and regulations of the Department of Environmental Protection and that the project site was constructed in accordance with the approved PCSM Plan, all approved plan changes, and accepted construction practices.”

- b. The permittee shall retain a copy of the record drawings as part of the approved PCSM Plan. The permittee shall also provide a copy of the record drawings as part of the approved PCSM Plan to the persons identified as responsible for the long-term operation and maintenance of PCSM BMPs. Permittees shall also provide copies of both the record drawings and the long-term operation and maintenance plan to the Department, authorized conservation district, and municipality.

C. Duty to Provide Information.

1. The permittee or co-permittee(s) shall furnish to DEP or an authorized conservation district within thirty (30) days of the date of request, any information that DEP or an authorized conservation district may request to determine whether cause exists for modifying, revoking, reissuing, or terminating this permit or coverage approved under this permit or to determine compliance with this permit.
2. The permittee or co-permittee shall furnish, upon request, to DEP or an authorized conservation district, copies of records required to be kept by this permit.
3. When the permittee or co-permittee becomes aware that they failed to submit any relevant facts or submitted incorrect information in the application, E&S Plan, PCSM Plan, or PPC Plan or in any other report to DEP or an authorized conservation district, the permittee or co-permittee shall within 24 hours of becoming aware of the deficiency submit or correct such facts or information.
4. The permittee or co-permittee shall give seven (7) calendar days' advance notice to DEP or an authorized conservation district of any planned physical alterations or additions to the permitted facility which could, in any way, substantially affect the quality and/or quantity of stormwater discharged from the activity.

D. Signatory Requirements.

Documents required, submitted, or maintained under this permit shall be signed in accordance with the following:

1. Notices of Intent, Transferee/Co-permittee Form, and Notices of Termination.
 - a. Corporations: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. Partnerships or sole proprietorships: a general partner or the proprietor, respectively.
 - c. Municipalities, state, federal, or other public agencies: either a principal executive officer or ranking elected official such as: (1) the chief executive officer or secretary of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., PennDOT District Executive).
2. All reports, plans, documents, and other information required by the permit or requested by DEP or an authorized conservation district shall be signed by a duly authorized representative of the permittee.
3. If there is a change in the duly authorized representative of the permittee or co-permittee, the permittee or co-permittee shall notify DEP or an authorized conservation district within thirty (30) days of the change.

E. Transfer of Ownership or Control.

1. This permit is not transferable to any person except after written notice and acknowledgment by DEP or an authorized conservation district.

- a. In the event of any pending change in control or ownership of facilities, the permittee or co-permittee shall notify DEP or an authorized conservation district using the form entitled "Transferee/Co-permittee Application" of such pending change prior to the change in ownership or control.
 - b. The Transferee/Co-permittee Application form shall be accompanied by a written agreement between the existing permittee and the new owner or operator stating that the existing permittee shall be liable for violations of the permit up to and until the date of coverage transfer and that the new owner or operator shall be jointly and individually liable for permit violations under the permit from that date on.
 - c. After receipt of an administratively complete and acceptable Transferee/Co-permittee Application form, DEP or an authorized conservation district shall notify the existing permittee and the new owner or operator of its decision concerning approval of the transfer of ownership or control. Such requests shall be deemed approved unless DEP or an authorized conservation district notifies the applicant otherwise within thirty (30) days. For the purposes of this permit, this modification is considered to be a minor permit modification.
2. For purposes of this permit, operators shall include general contractors. If prior to construction activities, the owner is the permittee and an operator/general contractor is later identified to become a co-permittee, the owner shall:
 - a. Notify DEP or an authorized conservation district by submitting an administratively complete and acceptable Transferee/Co-permittee Application form; and
 - b. Ensure that monitoring reports and any other information requested under this permit shall reflect all changes to the permittee and the co-permittee name.
 3. Upon authorization of a change in ownership or control, the existing permittee shall provide a copy of the permit and approved plans to the new owner and/or co-permittee.

F. Removed Substances.

Solids, sediments, and other pollutants removed in the course of treatment or control of stormwater shall be disposed in accordance with federal and state law and regulations, in order to prevent any pollutant in such materials from adversely affecting the environment.

G. BMP Construction, Operation and Maintenance.

The permittee and co-permittee(s) are responsible for the design, installation, operation, and maintenance of the BMPs identified in the E&S Plan, PCSM Plan, and PPC Plan.

H. Adverse Impact.

The permittee and co-permittee(s) shall take all reasonable steps to prevent, minimize, or cease any discharge in violation of this permit.

I. Reduction, Loss, or Failure of BMP.

Upon reduction, loss, or failure of any BMP, the permittee and co-permittee shall take immediate action to restore, repair, or replace the BMP or provide an alternative method of treatment. Such restored BMP or alternative treatment shall be at least as effective as the original BMP when properly installed. These actions should be undertaken to ensure that there are no pollutional discharges to the waters of the Commonwealth. This requirement is applicable in situations where the BMP is rendered ineffective, whether the cause or source of the reduction, loss or failure is within or beyond the control of the permittee or co-permittee.

II. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply.

The permittee and co-permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Pennsylvania Clean Streams Law and is grounds for enforcement action; for permit termination, revocation, reissuance, or modification; or for denial of a permit or permit renewal.

B. Penalties for Violations of Permit Conditions.

Any person who violates a permit condition, fails to take corrective action to abate violations or falsifies report or other documents may be subject to criminal and/or civil penalties or other appropriate action for violations of the terms and conditions of this permit under Sections 602 and 605 of the Clean Streams Law (35 P.S. §§ 691.602 and 691.605), which are incorporated by reference.

C. Need to Halt or Reduce Activity Not a Defense.

The permittee and/or co-permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.

D. Penalties and Liability.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee or co-permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject.

E. Property Rights.

This permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

F. Severability.

The provisions of this permit are severable; and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

G. Other Laws.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee or co-permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.

H. Right of Entry

Pursuant to Sections 5(b) and 305 of the Pennsylvania Clean Streams Law (35 P.S. §§ 691.5(b) and 691.305), and Section 1917-A of the Administrative Code of 1929, the permittee and co-permittee shall allow the Director of DEP, and/or an authorized representative of DEP, conservation district or, in the case of a facility which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents, as may be required by law, to:

1. Enter upon the permittee's or co-permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit.
2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of this permit.

3. Inspect any facilities or equipment (including monitoring and control equipment).
4. Observe or sample any discharge of stormwater.

I. Availability of Reports.

Except for data determined to be confidential under Section 607 of the Clean Streams Law (35 P.S. § 691.607), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of DEP or authorized conservation district. As required by the Clean Streams Law, permit applications, permits, and other documents related to this permit shall not be considered confidential.

J. Penalties for Falsification of Reports.

Any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance is subject to criminal sanctions as set forth for false swearing and unsworn falsification at 18 Pa. C.S. §§ 4903-4904 and Section 611 of the Clean Streams Law (35 P.S. § 691.611).

K. The permittee or co-permittee shall contact DEP or an authorized conservation district for clarification of any requirements contained in the E&S Plan, PCSM Plan, PPC Plan, or other documents related to this permit.

PART C**SPECIAL CONDITIONS****I. PROHIBITED DISCHARGES**

- A. All discharges covered by this permit shall be composed entirely of stormwater. Discharges of substances other than stormwater must be in compliance, when required, with an NPDES permit (other than this permit) issued for the discharge. Discharges of sewage or industrial waste to waters of the Commonwealth or a BMP is not permitted.
- B. The permittee or co-permittee(s) may not discharge floating materials, oil, grease, scum, foam, sheen, and substances which: produce odor, taste, or turbidity or settle to form deposits in concentrations or amounts sufficient to be, or create a danger of being, inimical to the water uses to be protected or human, animal, plant, or aquatic life.

II. EROSION AND SEDIMENT CONTROL (E&S) PLANS

- A. The permittee shall implement its approved E&S Plan, including all BMPs contained therein. The E&S Plan is incorporated into this permit.
- B. E&S Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law (35 P.S. § 691.607). The owner or operator of a facility with stormwater discharges covered by this permit shall make E&S Plans available to the public upon request. E&S Plans must be made available at the site of the construction activity at all times.
- C. The staging of earth disturbance activities and maintenance requirements contained in the approved E&S Plan must be followed.
- D. Upon the installation or stabilization of all perimeter sediment control BMPs and at least three (3) days prior to proceeding with the bulk earth disturbance activities, the permittee or co-permittee shall provide notification to DEP or an authorized conservation district.
- E. All manufactured BMPs, including erosion control matting and water quality devices, shall be installed and maintained in accordance with manufacturer's recommendations.
- F. General site clearing, grubbing and topsoil stripping shall not commence in any stage or phase of the project until the E&S BMPs specified by the E&S Plan for that stage or phase have been installed and are functioning as described in the E&S Plan. All topsoil and, if necessary, suitable subsoil shall be separately removed, segregated, conserved, and redistributed on areas affected by the pipeline construction.
- G. Regardless of slope, erosion control blankets shall be used for all seeded areas within 100 feet of a High Quality or Exceptional Value surface water. For all slopes that are 3H:1V or steeper or where potential exists for sediment pollution to receiving waters, erosion control blankets shall be used for all seeded areas within 50 feet of a surface water.
- H. In accordance with the E&S and Site Restoration Plans, measures shall be taken to ensure that proper soil de-compaction occurs for all areas of site restoration for the project. The permittee shall implement such measures in accordance with the guidance on soil restoration in the PA Stormwater BMP Manual (BMP 6.7.3, Chapter 6, page 221). For areas where stone and/or timber mats were used for temporary stabilization and/or access, de-compaction must be done by aggressively fracturing the subsoil (lateral and vertical fracturing of the exposed and compacted subsoil) to the depth of the affected thickness of the subsoil but no less than 16 inches below the surface of the subsoil with the appropriate "heavy duty" agricultural grade deep ripper. In all other areas, aggressive fracturing of the subsoil must be done to the depth of the affected thickness of the subsoil but no less than 24 inches below the surface of the subsoil.
- I. Prior to topsoil application, graded areas will be scarified to a depth of 3 to 5 inches, minimum, to allow for bonding of the topsoil to the surface of the subsoil. Topsoil must be uniformly distributed across the disturbed area to a depth of 4 to 8 inches, minimum.

- J. Where compost filter sock is necessary to elevate the pumped water filter bag to an ABACT E&S BMP, the compost filter sock shall be placed to sufficient length to manage all flow from the pumped water filter bag.
- K. For all discharges from the project site associated with earth disturbance activities, the permittee shall implement, maintain, repair and if necessary replace BMPs to minimize the potential for accelerated erosion and sedimentation and to protect, maintain, reclaim and restore water quality and existing and designated uses.

III. SITE RESTORATION/POST-CONSTRUCTION STORMWATER MANAGEMENT (PCSM) PLANS

- A. The permittee shall implement its approved PCSM Plan, including all BMPs contained therein. The PCSM Plan is incorporated into this permit.
- B. PCSM Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law (35 P.S. § 691.607). The owner or operator of a facility with stormwater discharges covered by this permit shall make PCSM Plans available to the public upon request. The PCSM Plans must be made available at the site of the construction activity at all times.
- C. A licensed professional or their designee shall be present on-site and be responsible for oversight of critical stages of implementation of the approved PCSM Plan. The licensed professional will be responsible to provide a final certification, pursuant to 25 Pa. Code § 102.8(l), along with the required NOT and record drawings, indicating that the project site was constructed in accordance with the approved or modified PCSM Plan.
- D. The PCSM Plan must be consistent with the assumptions and requirements of any available WLAs for the discharges as set forth in any applicable TMDLs established for the receiving waters.
- E. The portion of a site reclamation or restoration plan that identifies PCSM BMPs to manage stormwater from pipelines or other similar utility infrastructure may be used to satisfy the PCSM requirements if the PCSM, reclamation, or restoration plan meets the requirements of 25 Pa. Code § 102.8(b), (c), (e), (f), (h), (i) and (l) and, when applicable, (m).
- F. All manufactured BMPs, including erosion control matting and water quality devices, shall be installed and maintained in accordance with manufacturer's recommendations.
- G. In accordance with the E&S and Site Restoration Plans, measures shall be taken to ensure that proper soil de-compaction occurs for all areas of site restoration for the project. The permittee shall implement such measures in accordance with the guidance on soil restoration in the PA Stormwater BMP Manual (BMP 6.7.3, Chapter 6, page 221). For areas where stone and/or timber mats were used for temporary stabilization and/or access, de-compaction must be done by aggressively fracturing the subsoil (lateral and vertical fracturing of the exposed and compacted subsoil) to the depth of the affected thickness of the subsoil but no less than 16 inches below the surface of the subsoil with the appropriate "heavy duty" agricultural grade deep ripper. In all other areas, aggressive fracturing of the subsoil must be done to the depth of the affected thickness of the subsoil but no less than 24 inches below the surface of the subsoil.
- H. Prior to topsoil application, graded areas will be scarified to a depth of 3 to 5 inches, minimum, to allow for bonding of the topsoil to the surface of the subsoil. Topsoil must be uniformly distributed across the disturbed area to a depth of 4 to 8 inches, minimum.
- I. Vegetation used to meet Site Restoration requirements must achieve meadow in good condition for stormwater function.
- J. Upon reduction, loss, or failure of any PCSM BMP, the permittee shall immediately take measures to prevent pollution to waters of the Commonwealth and adverse impacts to the environment. The permittee shall immediately submit to DEP for review and approval a Corrective Action Plan (CAP) and, if necessary, a permit modification, which shall include a schedule for the repair and/or replacement of the PCSM BMP. Upon DEP's approval of the CAP, the permittee shall implement the CAP.

- K. The permittee shall implement PCSM BMPs as detailed in the approved PCSM Plan. Any changes to the PCSM Plan, including the introduction of alternate PCSM BMPs or the elimination of any approved PCSM BMPs, must be approved by DEP prior to the implementation of these changes.
- L. The PCSM Plan, inspection reports, and monitoring records shall be made available at the project site for review and inspection by DEP and the authorized conservation district.
- M. All disturbed areas shall be replanted or seeded with native and non-invasive species.

IV. PREPAREDNESS, PREVENTION, AND CONTINGENCY (PPC) PLANS

- A. If toxic, hazardous, or other polluting materials will be on site, the permittee or co-permittee(s) must implement a PPC Plan for use while those materials are on-site in accordance with 25 Pa. Code § 91.34 (relating to activities utilizing pollutants). The PPC Plan shall identify areas which may include, but are not limited to, waste management areas, raw material storage areas, fuel storage areas, temporary and permanent spoil storage areas, maintenance areas, and any other areas that may have the potential to cause noncompliance with the terms and conditions of this permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, concrete washwaters, etc. BMPs shall be developed and implemented for each identified area.
- B. The PPC Plan shall be maintained on-site at all times and shall be made available for review at the request of DEP or an authorized conservation district.

V. RECYCLING AND DISPOSAL OF BUILDING MATERIALS AND WASTES

All building materials and wastes must be removed from the site and recycled or disposed in accordance with DEP's Solid Waste Management Regulations at 25 Pa. Code Chapter 260a (relating to hazardous waste management system: general), Chapter 271 (related to municipal waste management system – general provisions), and Chapter 287 (relating to residual waste management system – general provisions). No building materials or wastes or unused building materials shall be burned, buried, dumped, or discharged at or from the site.

VI. PRE-CONSTRUCTION MEETINGS

For earth disturbance activities authorized by this permit, at least one pre-construction meeting is required. The permittee shall contact DEP to schedule the pre-construction meeting and provide at least seven (7) days' notice of the pre-construction meeting to all invited attendees, unless otherwise approved by DEP in writing. Permittees, co-permittees, operators, and licensed professionals, or designees responsible for earth disturbance activity, including implementation of E&S, PCSM and PPC Plans and critical stages of implementation of the approved PCSM Plan, shall attend the pre-construction meeting(s). Permittees, co-permittees, operators and licensed professionals are responsible for ensuring that all activities on the site comply with the requirements of the permit.

VII. SPOIL OR BORROW AREAS

- A. An E&S Plan or other authorization meeting the regulatory requirements detailed in 25 Pa. Code § 102.4(b) shall be received and approved by DEP or an authorized conservation district and implemented for all spoil and borrow areas, regardless of their locations.
- B. Clean Fill Requirements – Any person placing clean fill that has been affected by a spill or release of a regulated substance must use DEP Form FP-001 (Certification of Clean Fill) to certify the origin of the fill material and the results of the analytical testing to qualify the materials as clean fill. The form must be retained by the owner of the property receiving the fill. Fill material not qualifying as clean fill is regulated fill and must be managed in accordance with DEP's municipal or residual waste regulations based on 25 Pa. Code Chapters 271 or 287, whichever is applicable.

VIII. PHASED PROJECTS

Prior to the commencement of earth disturbance activities for subsequent phases of the project, the permittee or

co-permittee shall submit an E&S Plan and PCSM Plan and supporting information for each additional phase or portion of the project to DEP or an authorized conservation district for approval. Coverage under this permit is only granted for those phases or portions of a project for which an E&S Plan and PCSM Plan has been submitted and approved by DEP or an authorized conservation district.

IX. WETLAND PROTECTION

If hydric soils or other wetland features are present, a wetland determination must be conducted in accordance with DEP procedures. A copy of the wetland determination shall be provided to DEP or an authorized conservation district as part of the application. All wetlands identified must be included on the E&S Plan and PCSM Plan. Special precautions must be taken to protect wetlands and other water resources identified in the application, plans, and other supporting documents.

X. INFILTRATION BMPs

Where infiltration and/or restoration BMPs are being utilized, the permittee and co-permittee must ensure that soil compaction is avoided or minimized in those areas. If the areas planned for infiltration and/or restoration BMPs are compromised through compaction or other means, measures shall be taken to ensure that proper soil de-compaction occurs. The permittee shall implement such measures in accordance with the guidance on soil restoration in the PA Stormwater BMP Manual (BMP 6.7.3, Chapter 6, page 221). Additional soil testing must be performed to verify that the BMPs will perform as planned.

XI. STABILIZATION

The time period between the trench excavation to the beginning of disturbed area stabilization for the main line pipeline installation shall not exceed thirty (30) calendar days, unless sufficient justification for an extension of time is provided to and approved by DEP in writing. Upon temporary cessation of any earth disturbance activity, including topsoil and soil stockpiles, for which the cessation of the earth disturbance activities will exceed four (4) calendar days, the disturbed area shall be temporarily stabilized in accordance with the E&S Plan and with 25 Pa. Code § 102.22(b). Proper E&S BMPs shall be implemented and maintained throughout the entire project until permanent stabilization and Notice of Termination approval.

XII. LONG-TERM OPERATION AND MAINTENANCE

- A. The permittee or co-permittee shall be responsible for long-term operation and maintenance of PCSM BMPs unless a different person is identified in the NOT and that person has agreed to long-term operation and maintenance of PCSM BMPs.
- B. For any property containing a PCSM BMP, the permittee or co-permittee shall record an instrument with the Recorder of Deeds which will assure disclosure of the PCSM BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM BMP, provide for necessary access related to long-term operation and maintenance for PCSM BMPs, and provide notice that the responsibility for long-term operation and maintenance of the PCSM BMPs is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees, and provide proof of filing with the NOT under 25 Pa. Code § 102.8(m)(2).
- C. For Commonwealth owned property, a covenant that runs with the land is not required until the transfer of the land containing a PCSM BMP occurs. Upon transfer of the Commonwealth-owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m)(3). An agency of the federal government shall not be required to make or record a declaration of covenants on its property until transfer of the property to a non-federal or non-commonwealth entity or individual. Upon transfer of the Commonwealth owned or federally owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m)(3).
- D. The person responsible for performing long-term operation and maintenance may enter into an agreement with another person, including a conservation district, nonprofit organization, municipality, authority, private corporation, or other person, to transfer the responsibility for PCSM BMPs or to perform long-term operation and maintenance and provide notice thereof to DEP.

- E. A permittee or co-permittee that fails to transfer long-term operation and maintenance of the PCSM BMPs or otherwise fails to comply with this requirement, shall remain jointly and severally responsible with the landowner for long-term operation and maintenance of the PCSM BMPs located on the property.
- F. Unless a later date is approved by DEP in writing, the permittee shall record an instrument as required under 25 Pa. Code Subsection 102.8(m)(2) and Paragraph XII.B., above, within 45 days from the date of issuance of this permit or authorization. Unless DEP authorizes a different procedure, the long-term operation and maintenance plan shall be recorded along with the instrument. Unless a later date is approved by DEP in writing, the permittee shall provide the conservation district and DEP with the date and place of recording along with a reference to the docket, deed book or other record, within 90 days from the date of issuance of this permit or authorization
- G. Unless an alternative process is approved by DEP in writing, upon the sale or other transfer of any parcel, lot, road or other real property included within the permit boundary, the permittee shall notify the purchaser, grantee, or transferee of the long-term PCSM BMP operation and maintenance requirements. The permittee shall expressly identify the PCSM BMPs on each property, the schedule for inspection and reporting, the person or entity responsible for long-term operation and maintenance of the PCSM BMPs, and how access to the BMPs will be achieved and shall obtain approval from the purchaser, grantee or transferee. Unless a later date is approved by DEP in writing, the permittee shall provide the conservation district and DEP with notice of compliance with this section within 45 days from the date of transfer of the property and at the time the permittee files a Notice of Termination.

XIII. PRIOR CONTAMINATION

The permittee shall implement the following procedures at any location of the project site where it knows or has reason to believe that soils are or may be contaminated due to past land uses or upon receipt of written notification from DEP:

- A. Minimize Disturbance – Limit the extent and duration of earth disturbance activities, including the use of less intrusive earth disturbance techniques/equipment, and avoiding and minimizing the impact of ancillary areas that are not necessary for the project.
- B. Incorporate a contingency plan and additional safety protocols in the event unexpected contamination is uncovered. These protocols shall be established in the permittee's PPC Plan. Incorporate appropriate dust control and suppression practices and procedures during dry and windy periods.
- C. Implement immediate stabilization on all contaminated areas of the project site involving earth disturbance. This may be achieved using mats/blankets/linings/mulching (including compost); temporary and/or permanent seeding/vegetation; tarping or other impermeable/impervious cover; or temporary daily cover.
- D. Implement and maintain perimeter E&S BMPs including, but not limited to, compost filter berms, compost filter socks or weighted sediment filter tubes, and/or non-acrylamide flocculants.

XIV. WATER SUPPLY NOTIFICATION

- A. At least 72 hours in advance of beginning any construction or earth disturbance activities, the permittee shall directly notify all public and private water supply owners identified in Shell's Water Supply Monitoring Plan.
- B. If the project results in a pollution event or other adverse impact to any public or private water supplies, the permittee shall immediately notify the Department and the potentially affected public or private water supply owner(s) of the pollution event and implement the mitigation measures specified in Shell's Water Supply Monitoring Plan.
- C. In the event the permittee's work causes adverse impacts to a public or private water supply source, the permittee shall restore or replace the impacted water supply and mitigate and/or remediate any pollution resulting from the project in accordance with applicable legal requirements.
- D. At least 72 hours in advance of beginning construction activities, the permittee shall notify all owners of surface water intakes within one mile downstream from each stream crossing.

- E. The permittee shall immediately notify a landowner with a water supply within 450 feet of an HDD of any discharge of pollution or incident associated with the project.
- F. If a public or private drinking water source not previously identified by the permittee is discovered by the permittee during construction, the permittee shall immediately notify the Department of the identified water source and shall notify the source owner of the permittee's construction activities.

XV. ARCHAEOLOGICAL SPECIMENS

The permittee and its agents shall visually inspect for archaeological specimens, as the term is defined in the Pennsylvania State History Code (37 Pa. C.S.A., Section 101 *et seq.*), during earth disturbance activities, and shall immediately cease earth disturbance activities upon discovery of archaeological specimens. Upon discovery, the permittee shall immediately notify DEP and PHMC (Phone: (717) 783-8947).

XVI. DISCHARGES TO NON-SURFACE WATERS

This permit authorizes proposed discharges of stormwater to non-surface waters. Discharges to areas that are not surface waters shall not cause accelerated erosion or stormwater damage to down slope or adjacent properties. These areas that are not surface waters shall be maintained to prevent erosion from stormwater flows.

XVII. HABITAT CONSERVATION PLANS AND THREATENED AND ENDANGERED SPECIES PROTECTION

- A. Permittee shall avoid construction activities during the Northern Harrier breeding season, from April 15 through August 31, in the project area between Potato Garden Run Road in Findlay Township, Allegheny County and State Route 980 in Robinson Township, Washington County.
- B. Permittee shall not conduct in-stream work between May 1 and July 31, within the Service Creek Watershed, to avoid potential impacts to a PA-threatened fish species.
- C. Permittee shall not conduct in-stream work in the Mill Creek stream channel, a stocked trout stream, between March 1 and June 15 without the prior written approval of the Pennsylvania Fish and Boat Commission.
- D. Prior to conducting any future maintenance activities on the pipeline or right-of-way which involve earth disturbance, the permittee shall: conduct a current Pennsylvania Natural Diversity Inventory search, obtain clearance(s) for any species or resource where a potential impact is identified, provide the avoidance and mitigation plan to DEP prior to initiating such maintenance work, and shall implement and adhere to all avoidance measures outlined in such clearance(s).

XVIII. HORIZONTAL DIRECTIONAL DRILLING

- A. Fifteen days before Horizontal Directional Drilling (HDD) operations start at an HDD location, the permittee will notify all landowners within 450 feet of HDD alignments (by US Postal Service Certified Mail and First Class Mail), and offer such landowners the opportunity to have their water supplies within 450 feet of the HDD alignment sampled before, during and after the HDD operation in accordance with the parameters in Shell's Water Supply Monitoring Plan.
- B. A copy of the Inadvertent Returns From HDD: Assessment, Preparedness, Prevention and Response Plan shall be located at each HDD crossing during all HDD operations, and shall be made available to federal, state, and local regulatory agency representatives upon request.
- C. The permittee shall construct and operate the HDD crossings at wetlands, streams and floodways in a manner to prevent a release of drilling fluid to "waters of the Commonwealth," as that term is defined in the Clean Streams Law, 35 P.S. § 691.1. The permittee shall immediately notify the Department at (412) 442-4000 in the event of an Inadvertent Return and shall immediately activate and implement the Inadvertent Returns From HDD: Assessment, Preparedness, Prevention and Response Plan to prevent or mitigate any impacts to waters of the Commonwealth and other natural resources.

- D. The permittee shall take measures to avoid drilling activities in the vicinity of mine voids and utilities.
- E. The permittee shall visually monitor the ground surface and within Waters of the Commonwealth wading and use of a boat, as necessary, to effectively observe and monitor for any drilling fluid surface return to Waters of the Commonwealth. If loss of circulation of drilling fluid occurs or drilling fluid pressure is lost, the permittee shall immediately investigate the drilling pathway and surrounding area for an inadvertent return. If an inadvertent return is discovered, then drilling shall immediately cease and the following must occur:
 - 1. If an inadvertent return occurs, the permittee shall provide notifications in accordance with the Inadvertent Returns From HDD: Assessment, Preparedness, Prevention and Response Plan.
 - 2. Drilling may only resume in accordance with the Applicant's Drilling Resumption Procedures outlined in the Inadvertent Returns From HDD: Assessment, Preparedness, Prevention and Response Plan or as otherwise provided by the Department.
 - 3. For those HDD sites that do not have an approved contingency crossing method, the permittee shall submit a permit modification to the DEP for review and approval prior to commencing any alternate crossing method.
- F. Inadvertent returns that impact or discharge to streams, floodways or wetlands shall be remediated in compliance with the Inadvertent Returns From HDD: Assessment, Preparedness, Prevention and Response Plan. If clean-up operations differ from the submitted plans, prior approval from the DEP Southwest Regional Office will be necessary for any modifications to the Inadvertent Returns From HDD: Assessment, Preparedness, Prevention and Response Plan.
- G. HDD additives which are certified for conformance with ANSI/NSF Standard 60 (Drinking Water Treatment Chemicals - Health Effects) are deemed acceptable to DEP, when used in strict compliance with the manner indicated in the certification of the additive. All conditions included as part of the additive's certification must be followed. A current listing of certified drilling fluids is maintained by NSF at <http://www.nsf.org/Certified/PwsChemicals/Listings.asp?ProductFunction=Drilling+Fluid&>. Use of drilling additives certified for conformance with ANSI/NSF Standard 60 does not relieve operators from the requirement to obtain the necessary permits to conduct HDD operations. Use of certified additives does not relieve the operator of liability should an inadvertent return or other pollution of waters of the Commonwealth occur as a result of drilling operations.

XIX. OTHER CONDITIONS

- A. This permit is not to be considered an approval of the structural or geotechnical analysis/design, the construction specifications, or the construction means and methods utilized during construction.
- B. Permittee shall implement and maintain proper erosion and sediment control BMPs on all existing access roads and obtain permit modifications where necessary.
- C. The Department hereby authorizes the riparian buffer waiver requested under 25 Pa Code Section 102.14(d)(2)(ii) and 102.14(d)(2)(iv).
- D. ABACT Erosion and Sediment Controls, including wheel wash facilities, are required for earth disturbance activity in any area for which any receiving water is classified as High Quality or Exceptional Value under Chapter 93 and all waters designated as Impaired with an approved TMDL that includes siltation as a pollutant evaluated.