

# MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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August 17, 2018

Via Electronic Filing  
Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
P.O. Bo 3265  
Harrisburg, PA 17105-3265

\*CHERRY HILL, NJ  
\*\*HONOLULU, HI  
PHILADELPHIA, PA  
by appointment only

\*Partner responsible – John F. Gullace  
\*\*Partner responsible – Brenda H. Gotanda

Re: Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline L.P.,  
Docket No. C-2018-3001451 and P-2018-3001453

Dear Ms. Chiavetta:

In accordance with paragraph 7 of the Commission's June 15, 2018 Opinion and Order and paragraph 5 of the Commission's August 14, 2018 Opinion and Order, enclosed for filing is the Affidavit of Matthew Gordon.

The affidavit verifies that the Pennsylvania Department of Environmental Protection ("PADEP") issued the appropriate permission for the continued construction of the ME2 and ME2X pipelines at two of the four remaining work locations in West Whiteland Township – North Pottstown Pike and Swedesford Road. These two work locations were previously identified as needing permit modification approvals in the July 3, 2018 Affidavit of Matthew Gordon at Exhibit 2 (copy enclosed), item numbers 2 and 3. These same two locations were also listed in the July 18, 2018 Affidavit of Matthew Gordon at paragraphs 5 and 6 as work areas 2 and 4. As verified in the enclosed affidavit, PADEP issued the required permit modification approvals for the North Pottstown Pike and Swedesford Road work locations on August 16, 2018.

With the enclosed affidavit, Sunoco Pipeline L.P. respectfully requests that the injunction on construction of the ME2 and M2X pipelines be discontinued at the North Pottstown Pike and Swedesford Road locations by Secretarial Letter pursuant to paragraph 6 of the Commission's August 14, 2018 Opinion and Order.

There are two remaining work locations in West Whiteland Township that require a PADEP approval – Devon Drive/Shoen Road/Biddle Drive and Exton Bypass/Lisa Drive,

Rosemary Chiavetta, Esquire  
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identified as items number 1 and 4 in Exhibit 2 to the July 3, 2018 Affidavit of Matthew Gordon (copy enclosed).

If you have any questions regarding this filing, please feel free to contact me at (484) 430-2347.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diana A. Silva".

Diana A. Silva

For MANKO, GOLD, KATCHER & FOX, LLP

DAS/bad/11842-019  
Enclosure

Rosemary Chiavetta, Esquire  
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cc: The Honorable Elizabeth Barnes (via first class mail and email: [ebarnes@pa.gov](mailto:ebarnes@pa.gov))  
Mark L. Freed, Esquire (via email: [mlf@curtinheefner.com](mailto:mlf@curtinheefner.com))  
Joanna A. Waldron, Esquire (via email: [jaw@curtinheefner.com](mailto:jaw@curtinheefner.com))  
Rich Raiders, Esquire (via email: [rich@raiderslaw.com](mailto:rich@raiderslaw.com))  
Kathryn Urbanowicz, Esquire (via email: [kurbanowicz@cleanair.org](mailto:kurbanowicz@cleanair.org))  
Joseph O. Minott, Esquire (via email: [joe\\_minott@cleanair.org](mailto:joe_minott@cleanair.org))  
Virginia Marcille Kerslake (via email: [vkerslake@gmail.com](mailto:vkerslake@gmail.com))  
Vincent Matthew Pompo, Esquire (via email: [vpompo@lambmcerlane.com](mailto:vpompo@lambmcerlane.com))  
Alex J. Baumler, Esquire (via email: [abaumler@lambmcerlane.com](mailto:abaumler@lambmcerlane.com))  
Anthony D. Kanagy, Esquire (via email: [akanagy@postschell.com](mailto:akanagy@postschell.com))  
Garrett P. Lent, Esquire (via email: [GLent@postschell.com](mailto:GLent@postschell.com))  
Erin McDowell, Esquire (via email: [emcdowell@rangeresources.com](mailto:emcdowell@rangeresources.com))  
Robert D. Fox, Esq. (via email: [rfox@mankogold.com](mailto:rfox@mankogold.com))  
Neil S. Witkes, Esq. (via email: [nwitkes@mankogold.com](mailto:nwitkes@mankogold.com))  
Thomas J. Sniscak, Esq. (via email: [tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com))  
Whitney E. Snyder, Esq. (via email: [wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com))  
Kevin McKeon, Esq. (via email: [KJMckeon@hmslegal.com](mailto:KJMckeon@hmslegal.com))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR	:	
ANDREW E. DINNIMAN,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3001451
	:	P-2018-3001453
SUNOCO PIPELINE L.P.,	:	
	:	
Respondent.	:	

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**AFFIDAVIT OF MATTHEW GORDON**

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Matthew Gordon states as follows:

1. My name is Matthew Gordon. I am employed by Sunoco Pipeline L.P. (“SPLP”) and currently serve as the Senior Director for the Mariner East 2 and 2X pipeline project.
2. I previously submitted affidavits on July 3, 2018 and July 18, 2018 in response to paragraph 7 of the Opinion and Order issued on June 15, 2018 (the “Order”) by the Pennsylvania Public Utility Commission (“Commission”) to identify the construction segments of the Mariner East 2 and 2X pipelines in West Whiteland Township for which the Pennsylvania Department of Environmental Protection (“DEP”) has issued all required permissions for construction.
3. This affidavit supplements my earlier affidavits, and provides the Commission with confirmation that DEP has approved permit modifications for construction of ME2 and ME2X at the North Pottstown Pike and Swedesford Road locations in West Whiteland Township.

4. There are two types of DEP permits that govern the construction of ME2 and ME2X in West Whiteland Township – (1) a Water Obstruction and Encroachment Permit, issued under DEP’s Chapter 105 program for each county, Chester County, permit number E15-862 (the “Chapter 105 permit”); and, (2) an Erosion and Sediment Control Permit issued under DEP’s Chapter 102 program for each DEP regional office, Southeast Regional Permit covering Chester and Delaware Counties, permit number ESG-01-000-15-001 (the “Chapter 102 permit”).

5. Attached as Exhibit 1 is a copy of the DEP Chapter 105 permit modification approval letter for the North Pottstown Pike work location, dated August 16, 2018.

6. Attached as Exhibit 2 is a copy of the DEP Chapter 105 permit modification approval letter for the Swedesford Road work location, dated August 16, 2018.

7. Attached as Exhibit 3 is a copy of the DEP Chapter 102 permit modification approval letter for the North Pottstown Pike work location, August 16, 2018.

8. Attached as Exhibit 4 is a copy of the DEP Chapter 102 permit modification approval letter for the Swedesford Road work location, dated August 16, 2018.

9. Attached as Exhibit 5 is a copy of the modified Chapter 102 permit, which applies to both the North Pottstown Pike and Swedesford Road work locations, dated August 16, 2018.

10. With the DEP approvals attached as Exhibits 1-5, DEP has authorized construction of the North Pottstown Pike and Swedesford Road work locations for ME2 and ME2X.

11. I understand that the statements set forth herein are made subject to Pa. C.S. § 4904 relating to unsworn falsification to authorities.

  
Matthew L. Gordon

Dated: August 16, 2018

# **EXHIBIT 1**

August 16, 2018

Mr. Matthew L. Gordon  
Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 16908

Re: Permit Modification Request  
Permit No. E15-862  
North Pottstown Pike Horizontal Directional Drill (HDD) Location S3-0370  
West Whiteland Township  
Chester County

Dear Mr. Gordon:

The Department of Environmental Protection (DEP) has reviewed the permit modification request submitted on February 28, 2018, for Permit No. E15-862. This request is specific to the North Pottstown Pike HDD S3-0370 location in West Whiteland Township, Chester County. The request proposes to change the methods of pipeline installation in this area from a single long HDD to a combination of open trenching and four conventional auger bores.

After review of this modification request, DEP has determined that this request proposes no additional permanent impacts to Chapter 105 regulated resources, and additional temporary impacts are limited to the overbank floodway.

Please be advised that your request has been approved, and the Chapter 105 Permit No. E15-862 is amended to include the revised activities.

All conditions specified in the original permit remain in effect and are to be complied with as part of this plan revision. Please ensure that the plans are fully implemented and available at the construction site.

If you have any questions, please contact me at the telephone number located in the first page footer.

Sincerely,

A handwritten signature in blue ink that reads "John Hohenstein". The signature is fluid and cursive, with the first name "John" being the most prominent part.

John Hohenstein, P.E.  
Acting Regional Manager  
Waterways and Wetlands

cc: Mr. Simsik, P.E. - Tetra Tech  
Mr. Mulray, P.G. - GES  
Mr. Waldrop, P.G. - GES  
U.S. Army Corps of Engineers, Philadelphia District  
West Whiteland Township  
Mr. Rocco, P.E. - PADEP  
Mr. Sofranko - Chester County Conservation District  
Re 30 (GJS18WAW)225-3



# **EXHIBIT 2**

August 16, 2018

Mr. Matthew Gordon  
Sunoco Logistics, L.P.  
535 Fritztown Road  
Sinking Spring, PA 19608

Re: Permit Modification Request  
PA DEP Permit No. E15-862  
East Swedesford Road, Horizontal Directional Drill (HDD) Location S3-0381  
West Whiteland Township  
Chester County

Dear Mr. Gordon:

The Department of Environmental Protection (DEP) has reviewed the permit modification request submitted on March 1, 2018, for Permit No. E15-862. This request is specific to the East Swedesford Road HDD S3-0381 location in West Whiteland Township, Chester County. The requested permit modification involves a change from a single long HDD installation to a combination of open trench installation, five conventional auger bore installations, and one FlexBor installation.

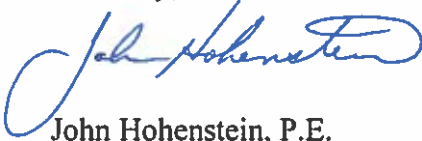
After review of this modification request, DEP has determined that this request proposes no additional permanent impacts to Chapter 105 regulated resources, and additional temporary impacts are limited to the overbank floodway.

Please be advised that your request has been approved, and the Chapter 105 Permit No. E15-862 is amended to include the revised activities. Also, be advised that trenchless construction methodologies are subject to the HDD Inadvertent Return Assessment, Preparedness, Prevention, and Contingency Plan (revised April 16, 2018). This document (Section 2.0) applies to all trenchless construction methodologies that use fluids under pressure, including HDD, guided auger bores, cradle bores, conventional auger bores, jack bore/hammer bores, guided bores, and FlexBors. Accordingly, you must comply with its terms, which include providing certain notifications to DEP and nearby landowners (Section 6.5), and offering water well testing to landowners with a private water supply located within 450 feet of the HDD (Section 6.6), as applicable.

All conditions specified in the original permit and plans remain in effect and are to be complied with as part of this permit revision. Please ensure that the plans are fully implemented and available at the construction site.

If you have any questions, please contact me at the telephone number located in the first page footer.

Sincerely,



John Hohenstein, P.E.  
Acting Regional Manager  
Waterways and Wetlands

cc: Mr. Simsik, P.E. - Tetra Tech  
Mr. Mulray, P.G. - GES  
Mr. Waldrop, P.G. - GES  
U.S. Army Corps of Engineers, Philadelphia District  
West Whiteland Township  
Mr. Rocco, P.E. - PADEP  
Mr. Sofranko - Chester County Conservation District  
Re 30 (GJS18WAW)225-1

# **EXHIBIT 3**

August 16, 2018

Mr. Matthew L. Gordon  
Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 16908

Re: Request for Permit Modifications  
Permit No. ESG 01 000 15 001  
North Pottstown Pike Horizontal Directional Drill (HDD) Location S3-0370  
West Whiteland Township  
Chester County

Dear Mr. Gordon:

This letter is in reference to the request submitted by your consultant and received by the Department of Environmental Protection (DEP) on October 18, 2017, and supplemental information provided on May 30, 2018, seeking a permit modification to the Erosion and Sedimentation (E&S) Permit associated with the North Pottstown Pike HDD S3-370 location in West Whiteland Township, Chester County. The requested permit modification is a change in installation methodology for the portion of the project in Chester County from a single long HDD to an open cut with some shorter auger bores.

This request is supported by information and analyses in the HDD Re-evaluation Report that was submitted by Sunoco on November 8, 2017, and approved by DEP on February 9, 2018. In evaluating the request, DEP considered the information submitted by the applicant, information and analyses in the Report, and public input that was provided.

Please be advised that your request has been approved, and the supplemental E&S Control Plans have been added to E&S Permit No. ESG 01 000 15 001. Please note that this E&S Permit expires on February 12, 2022.

All conditions specified in the original permit remain in effect and are to be complied with as part of this plan revision. Please ensure that the plans are fully implemented and available at the construction site.

If you have any questions, please contact Mr. Christopher Smith or myself at the telephone number located in the first page footer.

Sincerely,



John Hohenstein, P.E.  
Acting Regional Manager  
Waterways and Wetlands

cc: Mr. Simsik, P.E. - Tetra Tech  
Mr. Newcomer - Otis Eastern  
Mr. Mulray, P.G. - GES  
Mr. Waldrop, P.G. - GES  
U.S. Army Corps of Engineers, Philadelphia District  
West Whiteland Township  
Mr. Rocco, P.E. - PADEP  
Mr. Sofranko - Chester County Conservation District  
Re 30 (GJS18WAW)225-4

# **EXHIBIT 4**

August 16, 2018

Mr. Matthew L. Gordon  
Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 16908

Re: Request for Permit Modifications  
Permit No. ESG 01 000 15 001  
East Swedesford Road, Horizontal Directional Drill (HDD) Location S3-0381  
West Whiteland Township  
Chester County

Dear Mr. Gordon:

This letter is in reference to the request submitted by your consultant and received by the Department of Environmental Protection (DEP) on October 11, 2017, and supplemental information provided on May 30, 2018, seeking a permit modification to the Erosion and Sedimentation (E&S) Permit associated with the East Swedesford Road HDD S3-0381 location in West Whiteland Township, Chester County. The requested permit modification is a change in installation methodology for the portion of the project in Chester County from a long HDD to an open cut with some shorter auger bores and a shorter HDD.

The request is supported by information and analyses in the HDD Re-evaluation Report that was submitted by Sunoco on November 3, 2017, and approved by DEP on February 22, 2018. In evaluating the request, DEP considered the information submitted by the applicant, information and analyses in the Report, and public input that was provided.

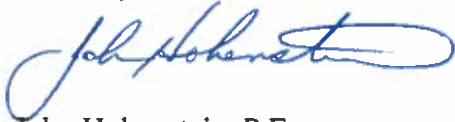
Please be advised that your request has been approved, and the supplemental E&S Control Plans have been added to E&S Permit No. ESG 01 000 15 001. Please note that this E&S Permit expires on February 12, 2022.

All conditions specified in the original permit remain in effect and are to be complied with as part of this plan revision. Please ensure that the plans are fully implemented and available at the construction site.



If you have any questions, please contact Mr. Christopher Smith or myself at the telephone number located in the first page footer.

Sincerely,



John Hohenstein, P.E.  
Acting Regional Manager  
Waterways and Wetlands

cc: Mr. Simsik, P.E. - Tetra Tech  
Mr. Newcomer - Otis Eastern  
Mr. Mulray, P.G. - GES  
Mr. Waldrop, P.G. - GES  
U.S. Army Corps of Engineers, Philadelphia District  
West Whiteland Township  
Mr. Rocco, P.E. - PADEP  
Mr. Sofranko - Chester County Conservation District  
Re 30 (GJS18WAW)225-2

# **EXHIBIT 5**



**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 NO.: ESG 01 000 15 001**

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 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.

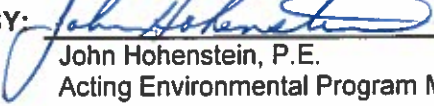
<u>Project Name and Location(s)</u>	<u>Permittee Name and Address</u>
PA Pipeline Project / Mariner East 2 Counties: Mariner East 2	Sunoco Pipeline, L.P. 535 Fritztown Road Sinking Spring, PA 19608

**THIS PERMIT SHALL BECOME EFFECTIVE ON August 16, 2018  
AND SHALL EXPIRE ON FEBRUARY 12, 2022.**

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: August 16, 2018

ISSUED BY:   
John Hohenstein, P.E.  
Acting Environmental Program Manager  
Waterways and Wetlands Program  
DEP Southeast 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 general 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 (> 0.1 inch) storm event 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.
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 and 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.
5. 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 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 pollutorial 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****OTHER REQUIREMENTS****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.
- 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).
- I. 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.
- J. 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. 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).
- H. 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.
- I. 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.
- J. 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.

**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 spoils 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 material 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

- A. 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.
- B. To protect the effective infiltration area(s) at PCSM BMPs during construction activities (including earth disturbance and conversion or installation), the infiltration area(s) for a PCSM BMP shall be protected by entirely surrounding the infiltration area with an 18-inch compost filter sock. This is only necessary in those



areas where specific infiltration BMPs are being utilized. The compost filter sock shall remain in place and be properly maintained until the contributing drainage area has reached permanent stabilization (a minimum uniform 70% perennial vegetative cover or other permanent non-vegetative cover with a density sufficient to resist accelerated erosion) and DEP or an authorized conservation district approves the removal of the compost filter sock.

## 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 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**

Prior to beginning any construction or earth disturbance activities, all public water supplies or other users of surface waters within one (1) mile downstream that may be affected by turbidity increases or other water quality changes caused by construction or earth disturbance activities shall be notified at least 72 hours prior to commencing the activities.

### **XV. ARCHAEOLOGICAL SPECIMENS**

The permittee shall not begin work in areas subject to Phase I or Phase II archeological investigations recommended by the Pennsylvania Historical and Museum Commission (PHMC) until the permittee secures the necessary clearances for these areas from PHMC. In addition, 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. RIPARIAN AREA REPLANTING**

Prior to submission of the Notice of Termination, the permittee shall replant forested riparian areas in temporary right of ways along surface waters. Replanting shall be conducted for a minimum distance of fifty (50) feet landward from the top of both banks of warm water fisheries and trout stocked fisheries; 100 feet from cold water fisheries; and 150 feet from HQ/EV streams. The density of replanted trees shall be similar to the density that existed prior to the permittee conducting construction activities but shall provide no less than 60% uniform canopy cover upon maturation and shall be appropriate to the geographic location. Maintenance and inspections shall ensure survival and growth of plantings and protection from competing plants and animals including noxious weeds and invasive

species over a 5-year establishment period to ensure and proper functioning of riparian forest buffers, and shall include measures to repair damage to the buffer from storm events greater than the 2-year/24-hour storm.

#### XVIII. HABITAT CONSERVATION PLANS AND THREATENED AND ENDANGERED SPECIES PROTECTION

- A. The permittee shall comply with all applicable provisions of the Habitat Conservation Plan submitted and approved by the U.S. Fish and Wildlife Service (USFWS), PA Game Commission (PGC), PA Fish and Boat Commission (PFBC) and PA Department of Conservation and Natural Resources (DCNR) to protect federal and state listed species. The permittee shall provide a copy of the plan to DEP prior to initiation of any work under this permit.
- B. The permittee shall implement the approved Habitat Conservation Plan in accordance with all PGC approvals for the Allegheny Woodrat (*Neotoma magister*). This includes no blasting or the use of herbicides on the project or in the vicinity of the project on DCNR lands as identified in the PGC clearance. The permittee shall provide a copy of the plan to DEP prior to initiation of any work under this permit.
- C. The permittee shall implement the Migratory Bird Conservation Plan approved by the USFWS. The permittee shall provide a copy of the plan to DEP prior to initiation of any work under this permit.
- D. The permittee shall implement all Avoidance Measures identified by the jurisdictional resource agencies for any threatened or endangered species or species of special concern.
- E. Where applicable, the permittee shall implement the Avoidance Measures identified in Appendix A of the Department's permit issued under Chapter 105 for all open trench wetland crossings in bog turtle (*Clemmys muhlenbergii*) counties identified by the USFWS as occupied, potentially occupied or adjacent habitats, unless otherwise specified by the USFWS.
- F. The permittee shall comply with all protocols set forth by the USFWS for protection of the Rusty Patch Bumble Bee.
- G. Prior to conducting any future maintenance activities on the pipeline or right of way which involves disturbance, the permittee shall conduct a then current Pennsylvania Natural Diversity Inventory search, shall 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).

Re 30 (GJS18WAW)225

## **STATUS OF SUNOCO PIPELINE CONSTRUCTION IN WEST WHITELAND TWP., CHESTER COUNTY**

- 1. Devon Drive/Shoen Road/Biddle Drive (S3-0360; PA-CH-0199.0000-RD):** SPLP will be able to proceed with activities authorized under the above Chapter 102 and Chapter 105 permits on this site once the Department receives proof that Sunoco has completed the 24 hour and 72 hour notification requirements set forth in the COA and the Corrected Stipulated Order, Sunoco provides their construction schedule to the Department, and DEP issues written authorization for Sunoco to commence drilling activities pursuant to the terms of the COA. The second HDD at this location requires SPLP to complete a satisfactory Reevaluation Report, which SPLP has not yet submitted, and which must be approved by the Department prior to Sunoco commencing construction at this location.
- 2. North Pottstown Pike (S3-0370; PA-CH-0212.0000-RD):** Both the HDDs at this location are being converted to a series of open cut and conventional bores. This location is subject to a pending major Chapter 102 permit modification application, as well as a modification to the Chapter 105 Permit, both of which must be approved by the Department before Sunoco may commence construction at this location.
- 3. Swedesford Road (S3-0381; PA-CH-0219.0000-RD):** Both the HDDs at this location are being converted to a series of open cut, conventional bores, and one FlexBor. This location is subject to a pending major Chapter 102 permit modification application, as well as a modification to the Chapter 105 Permit, both of which must be approved by the Department before commencing construction at this location.
- 4. Exton Bypass/Lisa Drive (S3-0400; PA-CH-0256.0000-RR):** The first pipeline for this site has been completed. The Department awaits information on ongoing site activities, the results of geophysical investigations, and a chronology of site activities from March 3, 2018 to the present, that Sunoco has committed to provide and share with the Department, but has not yet provided. A Department hydrogeologist reviewed geophysical information from the site on June 25, 2018. The second pipeline at this location cannot proceed until: (1) Sunoco provides a satisfactory Reevaluation Report, which SPLP has not yet submitted, and the submission is approved by the Department; and (2) Sunoco submits an application for a major Chapter 102 permit modification, as well as a modification to the Chapter 105 Permit, neither of which has been submitted to the Department; these permit modification requests must be approved by the Department prior to Sunoco re-commencing construction at this location.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party). This document has been filed electronically on the Commission’s electronic filing system, and electronically served on the following:

Mark L. Freed, Esquire Joanna Waldron, Esquire Curtin & Heffner, LLP Doylestown Commerce Center 2005 S. Easton Road, Suite 100 Doylestown, PA 18901 (267) 898-0570 <i>Counsel for Senator Andrew E. Dinniman</i>	Vincent Matthew Pompo, Esquire Alex J. Baumler, Esquire Lamb McErlane PC 24 East Market St., Box 565 West Chester, PA 19382-0565 (610) 430-8000 <i>Solicitor for West Whiteland Township</i>
Rich Raiders, Esquire Raiders Law 321 East Main Street Annville, PA 17003 (484) 638-6538 <i>Counsel for Andover Homeowners’ Association, Inc.</i>	Anthony D. Kanagy, Esquire Garrett P. Lent, Esquire Post & Schell PC 17 North Second Street, 12th Floor Harrisburg, PA 17101-1601 (717) 612-6032 <i>Counsel for Intervenor Range Resources – Appalachia LLC</i>
Kathryn Urbanowicz, Esquire Joseph Otis Minott, Esquire Clean Air Council 135 South 19th Street, Suite 300 Philadelphia, PA 19103 (215) 567-4004 <i>Counsel for Intervenor Clean Air Council</i>	Erin McDowell, Esquire Range Resources – Appalachia LLC 3000 Town Center Boulevard Canonsburg, PA 15317 (725) 754-5352 <i>Counsel for Intervenor Range Resources – Appalachia LLC</i>
Virginia Marcille Kerslake 103 Shoen Road Exton, PA 19341 (215) 200-2966 <i>Intervenor</i>	

Dated: August 16, 2018

/s/ Diana A. Silva, Esq.  
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Diana A. Silva, Esq. (PA ID No. 311083)