

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

ETC Northeast Pipeline, LLC	:	Violations of the Pa Clean Streams Law
6051 Wallace Road Extension, 3 rd Floor	:	Dam Safety and Encroachments Act
Wexford, PA 15090	:	Erosion and Sediment Control Regulations,
	:	Chapter 102
	:	Dam Safety and Water Management
	:	Regulations, Chapter 105

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 28th day of June 2018,
by and between the Commonwealth of Pennsylvania, Department of Environmental Protection
("Department") and ETC Northeast Pipeline, LLC ("ETC").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 ("Clean Streams Law"); the Dam Safety and Encroachments Act, Act of November 26, 1978, P.L. 1375, No. 325, *as amended*, 32 P.S. §§ 693.1-693.27 ("Encroachments Act"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations ("Regulations") promulgated thereunder.

B. ETC is a foreign limited liability company doing business in Pennsylvania and maintains a local mailing address of 6051 Wallace Road Extension, 3rd Floor, Wexford, PA 15090. ETC is a person as that term is defined by Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

C. ETC owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. ETC is the owner of, and is currently constructing, a pipeline to carry natural gas liquids from Jackson Township in Butler County, Pennsylvania to Smith Township in Washington County, Pennsylvania, where it will connect with the Revolution Cryogenic processing facility. This two-phase project is named the Revolution Pipeline Project (“Revolution Pipeline”). Revolution Pipeline is located in Jackson Township, Butler County; New Sewickley, Conway, Center, Raccoon, and Independence Townships, Beaver County; Findlay Township, Allegheny County; and Robinson and Smith Townships, Washington County. Revolution Pipeline is approximately 40.5 miles in length and covers 690 acres.

D. The Revolution Pipeline crosses Raccoon Creek in Center Township near Bunkerhill Road (“Site”). Exhibit A depicts the Site and is attached hereto and incorporated fully by reference.

E. At all times relevant to the matters set forth in this Consent Order and Agreement, ETC has been the “owner” and “operator” of Revolution Pipeline, as those terms are defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1; Section 3 of the Encroachments Act, 32 P.S. § 693.3; Section 102.1 of the Regulations, 25 Pa Code § 102.1; and the “owner” engaged in “operations” as those terms are defined in Section 105.1 of the Regulations, 25 Pa. Code § 105.1.

F. The Beaver County Conservation District (“BCCD”) is a public body corporate and politic, exercising public powers of the Commonwealth as an agency thereof, as authorized by Section 5 of the Conservation District Law, Act of May 15, 1945, P.L. 547, *as amended*, 3 P.S. §§ 849-864. Section 9 of the Conservation District Law, 3 P.S. § 857, Powers of Districts

and Directors, allows Districts to accept delegated authority from municipal or county governments, the Commonwealth, or Federal Government.

G. The Department has delegated to the BCCD, and the BCCD has accepted, authority to assist in the administration and enforcement of the erosion and sediment control program under the Clean Streams Law and the regulations promulgated at Title 25, Chapter 102 (Erosion and Sediment Control) and in the permitting, inspection, and monitoring specific categories of water obstructions and encroachments under the Encroachments Act and the regulations promulgated at Title 25, Chapter 105 (Dam Safety and Waterway Management).

Background

H. On August 4, 2016, the BCCD issued approval for coverage of Erosion and Sediment Control General Permit, ESG00007160001 (“ESCGP Permit”) under Chapter 102 of the regulations. The ESCGP Permit authorizes discharges of stormwater associated with earth disturbance activities from transmission facility construction. The ESCGP Permit consists of two phases of construction. Phase 1 includes 4,996 linear feet (“LF”) of a Horizontal Directional Drill (“HDD”) beneath the Ohio River and a trench installation of 1,533 LF of adjacent pipeline. Phase 2 includes construction of temporary work space areas, temporary access roads, 75 feet of permanent Right of Way (“ROW”), and 50 feet of temporary ROW over the entire route of the pipeline. Construction on the Site is included in Phase II. To date, the BCCD has issued three major modifications to the ESCGP Permit for pipeline relocation and additional pipeline installation.

I. Discharges from the construction activities associated with the construction of the Revolution Pipeline enter Brush Creek, Crows Run, Pine Run, Moon Run, Elkhorn Run, Shafers Run, Logtown Creek, Raccoon Creek, multiple unnamed tributaries (“UNT”) to Raccoon Creek, Frames Run, Service Creek, and Potato Garden Run, all waters of the Commonwealth that have a Warm Water Fishes protected use under Section 93.9w of the Regulations, 25 Pa Code § 93.9w.

J. Under the requirements of Section 102.4 of the Regulations, 25 Pa. Code § 102.4, and the ESCGP Permit, ETC developed an Erosion and Sediment Control Plan (“E&S Plan”) to minimize the potential for accelerated erosion and sedimentation from earth moving activities associated with the construction of the Revolution Pipeline. Section 102.4(b)(1) of the Regulations, 25 Pa. Code § 102.4(b)(1), requires the implementation and maintenance of erosion and sediment control best management practices (“BMPs”) during earth disturbance activities to minimize the potential for accelerated erosion and sedimentation.

K. On February 9, 2017, the BCCD acknowledged the Chapter 105 permit, GP050416244 (“GP”), filed by ETC for an open cut utility line stream crossing across Raccoon Creek. Due to a landowner agreement that precluded surface disturbance within 50 feet from the top of the bank of Raccoon Creek, ETC elected to utilize an auger bore to complete the casing for the utility line. In October 2017, the BCCD provided oral acknowledgement of an amendment to the GP to change the installation method from an open cut to an auger bore of 220 linear feet (“LF”).

L. In order to complete the auger bore, ETC constructed an engineered rail car slide trench box. When ETC completed the trench, it filled with water. In order to access the auger bore, ETC constructed a dewatering structure to remove water entering the work area. ETC

constructed the dewatering structure without a permit. ETC cased 120 LF before soil and stream conditions prevented completion of the bore.

M. On January 1, 2018, ETC filed an amended Chapter 105 General Permit Registration which included a plan to divert Raccoon Creek to allow ETC to conduct work in the stream bed and install the pipe with an open cut. The plan included construction of a Geotech lined diversion channel, sand bag dam, and two 24" steel culverts with energy dissipaters. ("Raccoon Creek Diversion Plan"). On January 5, 2018, the BCCD acknowledged an amendment to the General Permit Registration for the remaining 100 LF of casing beneath Raccoon Creek. On January 18, 2018, the BCCD acknowledged a second amendment to the General Permit Registration to extend the Limit of Disturbance on the northwest side of Raccoon Creek by 50 feet to allow adequate work space to set spoiled material ("Spoiled Material") once the pipeline ditch was excavated.

Placement of Fill into, Erosion of, and Discharges to Raccoon Creek

N. On or before January 24, 2018, ETC placed the Spoiled Material on the hillside of the western side of Raccoon Creek. The Spoiled Material was from the open cut of Raccoon Creek and was placed outside the floodway. On January 24, 2018, ETC allowed the Spoiled Material to slide downslope into Raccoon Creek. Initially no E&S BMPs were installed to contain the spoiled sediment. On February 6, 2018, the BCCD observed E&S BMPs installed in this area and a portion of the Spoiled Material had been removed from Raccoon Creek. On February 14, 2018, the BCCD observed that the Spoiled Material is continuing to slide downslope, but it did not enter the Raccoon Creek. On February 19, 2018, the BCCD observed the Spoiled Material entering Raccoon Creek.

O. On January 11, 2018, a two-inch rainstorm caused severe flooding throughout the project area. Prior to this rain event, as part of the Raccoon Creek Diversion Plan, ETC installed a diversion channel to by-pass Raccoon Creek that included road plates to assist in diverting Raccoon Creek towards the diversion channel. During the two-inch rainstorm, the road plates directed water towards the eastern stream bank of Raccoon Creek, resulting in a significant loss of the streambank. The stream bank has continued to erode and the loss of stream bank spans approximately 291 LF.

P. The unpermitted dewatering structure is approximately 1,100 feet east of the Raccoon Creek utility line stream crossing. Water is pumped at a rate of approximately 500 gallons per minute from a holding tank that collects water from the rail car slide trench box to the dewatering structure. On January 26, 2018 and February 6, 2018, the BCCD and the Department observed that the dewatering structure was overflowing and eroding a channel down the hillside and entering into the UNT to Raccoon Creek. While ETC has made improvements to the dewatering structure, including the addition of hay bales and geotextile fabric, the velocity and volume of water continued to overwhelm the system, resulting in a discharge sediment-laden runoff to the UNT to Raccoon Creek. On February 7, 2018, ETC stated that the dewatering system will not be utilized until additional measures, including the expansion of the containment area and installation of additional geotextile fabric, are implemented.

Violations of the Encroachments Act and Chapter 105

Q. ETC's activities described in Paragraph N, above, placed Spoiled Material in Raccoon Creek, without a permit or authorization from the Department.

R. ETC's activities described in Paragraph O, above, eroded 291 LF of the stream bank of Raccoon Creek without authorization from the Department.

S. As described in Paragraphs L and P, above, ETC constructed a dewatering structure without a permit or authorization from the Department.

T. ETC's actions described above in Paragraphs Q, R, and S constitute violations of Section 6 of the Encroachments Act, 32 P.S. § 693.6 and Section 105.11(a) of the Regulations, 25 Pa. Code § 105.11(a); constitute common law nuisances; constitute statutory nuisances under Section 402 of The Clean Streams Law, 35 P.S. § 691.402; constitute unlawful conduct under Sections 6 and 18 of the Encroachments Act, 32 P.S. §§ 693.6 and 693.18; and subject ETC to civil penalty liability under Section 21 of the Encroachments Act, 32 P.S. § 693.21 and Section 605 of The Clean Streams Law, 35 P.S. §§ 691.605.

Violations of The Clean Streams Law and Chapter 102

U. From November 20, 2017 to February 14, 2018, the BCCD conducted six (6) inspections of erosion and sedimentation controls along the Revolution Pipeline to determine compliance with the E&S Plan, the ESCGP Permit, The Clean Streams Law, and the Regulations.

V. On November 20, 2017, January 19, 2018, January 22, 2018, January 26, 2018, February 6, 2018, and February 14, 2018, ETC failed to implement and maintain effective BMPs to minimize the potential for accelerated erosion and sedimentation at the Site as required in the E&S Plan.

W. On November 20, 2017, January 19, 2018, January 22, 2018, January 26, 2018, and February 14, 2018, ETC caused "pollution" to "waters of the Commonwealth," as those

terms are defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1, by discharging sediment-laden water from the Site to Raccoon Creek and an UNT to Raccoon Creek.

Violations of The Clean Streams Law

X. ETC's actions described above in Paragraphs P, V, and W constitute violations of Section 102.4(b)(1) of the Regulations, 25 Pa. Code § 102.4(b)(1); the ESCGP Permit; and Sections 401 and 402 of The Clean Streams Law, 35 P.S. §§ 691.401 and 691.402; constitute nuisances under Sections 3, 401, 402 of The Clean Streams Law, 35 P.S. §§ 691.3, 691.401, and 691.402; constitute unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611; and subject ETC to civil penalty liability under Section 605 of The Clean Streams Law, 35 P.S. § 605.

Y. On March 7, 2018, ETC submitted an application for an Emergency Permit ("Emergency Permit") to authorize temporary stabilization of the Raccoon Creek stream bank and prevent further erosion at this location.

Z. On March 8, 2018, the Department issued the Emergency Permit that authorizes ETC to temporarily stabilize 291 LF of Raccoon Creek with riprap. The Emergency Permit includes two special conditions: (1) Landowner approval shall be provided to the Department before earth disturbance associated with the temporary stabilization may commence, and (2) ETC is responsible for assuring that riprap is of the appropriate size. The Emergency Permit expired on April 6, 2018 and the work was not completed because landowner approval was not obtained.

AA. On March 28, 2018, ETC submitted to the Department a General Permit 3 registration to authorize, among other things, the temporary stabilization of 291 LF of Raccoon

Creek with riprap ("Temporary Restoration GP"). On April 19, 2018, the Department acknowledged ETC's registration for the Temporary Restoration GP.

AB. On March 28, 2018, ETC submitted to the Department a second General Permit 3 registration to authorize the permanent restoration of the Site ("Permanent Restoration GP"). The Permanent Restoration GP included a monitoring plan. The Department has not approved the Permanent Restoration GP because ETC has not submitted an adequate plan.

AC. To implement the work authorized by Temporary Restoration GP and the Permanent Restoration GP when issued, ETC will need to obtain or receive access to one or both Beaver County Tax Parcel Numbers 56-183-0159 P00 and 56-183-1058 P00, which are owned by private parties ("Landowners").

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

1. Authority. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Sections 5, 316, 402, and 610 of The Clean Streams Law, 35 P.S. §§ 691.5, 691.316, 691.402, and 691.610; Section 20 of the Encroachments Act, 32 P.S. § 693.20; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

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

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

3. Corrective Actions.

a. Upon receipt of Landowner approval for Temporary Restoration GP or otherwise receiving access to the property of the Landowner, ETC shall begin implementing the work authorized by the Temporary Restoration GP as soon as possible and complete implementation of the Temporary Restoration GP within forty-five (45) days of Landowner approval or other access to the property of the Landowner.

b. By May 21, 2018, ETC shall provide the Department with a complete and accurate response to the Department's technical deficiency letter for the Permanent Restoration GP sent to ETC on April 19, 2018. The Department's technical deficiency letter is attached hereto as Exhibit B and is fully incorporated by reference.

c. Upon the Department's approval of the Permanent Restoration Plan and receipt of Landowner approval or other access to the Property, ETC shall implement the Permanent Restoration Plan as soon as possible and complete plan implementation within ninety (90) days of Department approval and Landowners' approval or other access to Landowners' property.

d. ETC shall effectively monitor the 291 LF of permanent stream restoration for at least five (5) years. Reports shall be submitted to the Department every six (6) months for the first two (2) years after construction and annually for three years thereafter. The monitoring reports shall contain information describing the success of the permanent stream restoration at the Site at the time of inspection, an inventory of the stream structures installed and other measures as identified in the approved Permanent Restoration Plan, photographs of the structures with plans showing the location and orientation of each photograph, and a written plan to correct any deficiencies identified during the monitoring phase. If deficiencies are present during the fifth year of monitoring, ETC shall continue to submit annual monitoring reports until the restoration work is successful.

e. If deficiencies are present during the fifth year of monitoring, ETC shall submit to the Department revisions to the Permanent Restoration Plan designed to permanently stabilize any unstabilized bank of Racoon Creek created directly or indirectly by its actions ("Plan Revisions"). The Department shall review the Plan Revisions and approve or request additional information to address any comments on the Plan Revisions. ETC shall address all comments made by the Department so that the design of the Plan Revisions is technically sound with adequate supporting information for a reviewing engineer to understand its technical basis. Upon review of all information submitted by ETC, the Department will approve or approve with modifications the Plan Revisions. After approval or approval with modifications of the Plan Revisions, ETC shall continue to submit annual monitoring reports to the Department until the restoration work is completed.

f. Any document or submission, including the Permanent Restoration GP and any modifications to the Permanent Restoration GP submitted to the Department by ETC under this Consent Order and Agreement, shall become part of this Consent Order and Agreement for all purposes, including its enforcement.

4. Civil Penalty Settlement. Upon execution of this Consent Order and Agreement, ETC shall pay a civil penalty of ONE HUNDRED FORTY-FIVE THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$145,250.00). This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs T and X, above, for the dates specified therein and no others. In addition, ETC shall pay cost recovery and oversight cost totaling FOUR THOUSAND NINE HUNDRED AND NINETY-TWO DOLLARS (\$4,992.00) to the Department and the BCCD as outlined below and sent according to the instructions in Paragraph 10 ("Correspondence with the Department"). The payments shall be made by corporate check or the like as follows:

a. Submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania – Dams and Encroachments Fund" in the amount of FORTY EIGHTY THOUSAND DOLLARS (\$48,000.00)

b. Submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania – Clean Water Fund" in the amount of NINETY-SEVEN THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$97,250.00)

c. Submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania - Clean Water Fund" in the amount of TWO THOUSAND FOUR HUNDRED AND FIFTY-SEVEN DOLLARS (\$2,457.00).

d. Submittal of a corporate check or the like made payable to "Beaver County Conservation District - Clean Water Fund" in the amount of TWO THOUSAND FIVE HUNDRED AND THIRTY-FIVE DOLLARS (\$2,535.00).

5. Stipulated Civil Penalties.

a. In the event ETC fails to comply in a timely manner with any term or provisions of this Consent Order and Agreement, ETC shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount of FIVE HUNDRED DOLLARS (\$500.00) per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth (15th) day of each succeeding month and shall be made by submittal of a bank check, cashier's check or money order made payable to "The Commonwealth of Pennsylvania - Clean Water Fund" and sent to:

Aileen Evan
Department of Environmental Protection
Waterways and Wetlands Program
400 Waterfront Drive
Pittsburgh, PA 15222

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

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

6. Additional Remedies.

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

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

7. Reservation of Rights. The Department reserves all other rights with respect to any matter addressed by this Consent Order and Agreement, including the right to require abatement of any conditions resulting from the events described in the Findings. ETC reserves the right to challenge any action which the Department may take, but waive the right to challenge the content or validity of this Consent Order and Agreement.

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

9. Transfer of Site.

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

b. If ETC intends to transfer any legal or equitable interest in the Project site that is affected by this Consent Order and Agreement, ETC shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least Thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Department's Waterways and Wetlands Program of such intent.

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

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

Pennsylvania Department of Environmental Protection
Southwest Regional Office
Waterways and Wetlands Program
400 Waterfront Drive
Pittsburgh PA 15222-4745
Attn: Aileen Evan
412-442-4127
aevan@pa.gov

All correspondence with the BCCD concerning this Consent Order and Agreement shall be addressed to:

Beaver County Conservation District
156 Cowpath Road
Aliquippa, PA 15001
Attn: Katie Staudenmeier
724-378-1701
katie.staudenmeier@bccdpa.us

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

ETC Northeast Pipeline, LLC
6051 Wallace Road Extension, 3rd Floor
Wexford, PA 15090
Attn: Thomas Glisson
412-491-7464

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

12. Force Majeure.

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

economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. ETC shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by ETC to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. ETC's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

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

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

14. Entire Agreement. This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior

drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

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

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

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

18. Decisions under Consent Order and Agreement. Any decision that the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C. S. § 101. Any objection that ETC may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

19. Termination. The obligations of this Consent Order and Agreement shall terminate upon the earlier occurrence of the following events: (a) if there are no outstanding stipulated penalties and the Department determines that ETC has complied with the requirements of Paragraph 3 or eight (8) years after the execution of this Consent Order and Agreement.

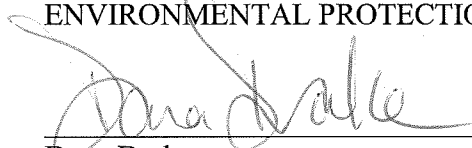
IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of ETC certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and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

FOR ETC NORTHEAST
PIPELINE, LLC.



Name: Alan G. Vaina

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

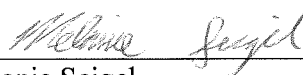


Dana Drake
Program Manager
Waterways and Wetlands

Name:



Name: Rhett Metz
Attorney for ETC



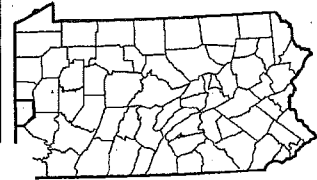
Melanie Seigel
Assistant Counsel

EXHIBIT

A



PROJECT LOCATION



BEAVER COUNTY,
PENNSYLVANIA

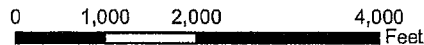
LEGEND

MAR 28 2018

-  EXISTING PIPELINE
-  WETLANDS & WETLANDS
-  PERMANENT RESTORATION PROJECT
-  LIMIT OF DISTURBANCE

LOCATION MAP

RACCOON CREEK
PERMANENT RESTORATION PROJECT
ETC NORTHEAST
PIPELINE, LLC



DRAWN BY: LCJ
CHECKED: MDO

DATE: 3/15/2018
APPROVED: RDW

REFERENCE:
USGS 7.5' TOPOGRAPHIC QUADRANGLES: ALIQUIPPA (1980) AND BEAVER (1980), PENNSYLVANIA, OBTAINED THROUGH ESRI USA TOPO MAPS, NATIONAL GEOGRAPHIC TOPO AND USGS, ACCESSED 03/2018.

EXHIBIT

B

Detweiler, Jamie

From: Detweiler, Jamie
Sent: Thursday, April 19, 2018 1:39 PM
To: 'Robin Weissert'; 'Glisson, Tom M'
Cc: Evan, Aileen; Owoc, Abbey; Katie Staudenmeier
Subject: ETC Raccoon Creek Permanent Stabilization

Hi,

Regarding the General Permit 3 Registration that you submitted for your permanent stabilization plan:

1. Your cross section shows the top of the constructed pipeline as being 2 ft beneath the streambed: however, you have a note on the cross section that says the pipeline is 5' beneath the streambed. Please verify the actual depth (from the streambed to the top of the encasement or pipeline, whichever is higher) that the pipeline was constructed and correct the cross section, as applicable.
2. Please provide a monitoring plan that includes monitoring for five years or until the project is successful (whichever is longer).
3. It is unclear, how the Geolift an Woody Toe shown in your typical drawing will fit in the 1 ft high bank, shown on your cross section. Please provide a scaled construction cross section, showing the proposed configuration of the geolift and woody toe on the streambank. The cross section does not need to show the entire cross section of the river, but should show the bankfull bench, and the size and location of the stabilization material.
4. Are you proposing to remove the riprap that was placed as the temporary stabilization?
5. Regarding the "Geolift with woody toe" typical drawing, shown on Drawing C180153-00-000-00-C-D2-006:
 - a. Please provide the source of the design and discuss any changes that you made from the source of this design
 - b. Please explain note 4 (Rock may be added as anchoring material) – for example, is this additional rock from the rock toe protection shown in your typical? Under what conditions would the rock anchoring material be used? Where will this material be placed?
 - c. Please provide calculations that show that the compacted sod can withstand the floodflow velocities until the vegetation is established.
 - d. The typical references the planting plan for species of live branch cuttings. This information was not found in the planting plan. Please provide the location of this information in the planting plan or revise the application to provide this information.
6. How will the bankfull bench be protected from erosion until the permanent vegetation gets established? Please provide evidence that the stabilization technique is adequate.
7. There is a concern that the cross section will widen the floodway, which will slow the flood flow and cause excess deposition on the proposed bankfull bench. Please address this concern.
8. Your cross sections indicate that the bankfull is only 1 ft high at cross section C-C, and 2 ft high at B-B. Your pictures and site visit indicated that the water level is typically higher than 1 ft from the streambed. Please explain how you determined the bankfull elevation.
9. There is also a concern that the bankfull bench would be inundated with water for most of the year if it is constructed only 1 ft in elevation from the streambed. Please address this concern.
10. Please provide a drawing for your proposed planting plan, showing the locations and species of proposed seed mixes and woody vegetation.

Please let me know if you have any questions,

Jamie Detweiler | Water Pollution Biologist 2
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