



BERKS COUNTY
CONSERVATION DISTRICT

Conserving Natural Resources for Our Future

May 11, 2017

James Ryan
Birdsboro Power LLC
P.O. Box 314
Birdsboro, PA 19508

Re: Permit Authorization Cover Letter for General NPDES Permit for Stormwater Discharges
Associated with Construction Activities
Birdsboro Power Project – Major Modification
Electric Transmission Line and Storm Outfalls Rehabilitation
NPDES Permit # PAC060046
BCCD ID # ESP-00731
Borough of Birdsboro, Exeter Township, and Robeson Township, Berks County, PA

Dear Mr. Ryan:

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq* (“the Act”) and Pennsylvania’s Clean Streams Law, as amended, 35 P.S. §§ 691.1 *et seq.*, the Berks County Conservation District hereby authorizes the notice of intent for the NPDES permit for Stormwater Discharges Associated with Construction Activities (PAC060046) from the Birdsboro Power Proposed Electric Transmission Line and Storm Outfalls Rehabilitation, located off of Boonetown Road, in the Borough of Birdsboro, Exeter Township, and Robeson Township, to the Schuylkill River – WWF, MF; Heisters Creek – WWF, MF; Hay Creek – CWF, MF; and unnamed tributaries to the Schuylkill River – WWF, MF.

PAC060046 was effective on 03/23/2017. Major modifications do not extend the expiration date of the NPDES permit beyond the original expiration date. Therefore, the proposed Birdsboro Electric Transmission line and Storm Outfalls Rehabilitation covered under PAC060046 will expire on 03/22/2022. All dischargers are required by Sections 402 and 611 of The Clean Streams Law, 35 P.S. §§691.402 and 691.611 to comply with the terms and conditions of their permit.

In addition to the NPDES permit authorization, the permittee and any subsequent co-permittees have additional responsibilities related to this authorization. NPDES permit requirements and federal regulations at 40 C.F.R. 122.21(b) require "when a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit" (see permit condition Part B(1)(d)(1) and (3) for transfer of permit or co-permittee requirements.) Please be advised that once an operator/contractor has been selected for the project, the NPDES permit

must either be transferred to the operator/contractor or the operator/contractor must be made a co-permittee and enter into an agreement with the permittee. Please use the enclosed Transferee/Co-Permittee Application form to transfer the permit or to add a co-permittee. This form must be received by this office at least 30 days prior to the co-permittee/transferee action taking place.

A pre-construction conference is required as specified in 25 Pa. Code § 102.5(e). The purpose of this conference is to review all aspects of the permit with the permittee, co-permittees, operators, consultants, the DEP inspectors and licensed professionals or their designees who will be responsible for the implementation of the critical stages of the approved PCSM plan.

It is a condition of NPDES permit that as part of the maintenance program for the operation and maintenance of Best Management Practices (BMPs) the permittee or co-permittee must conduct inspections of the BMPs on a weekly basis and after each stormwater event (including the repair or replacement of BMPs) to ensure effective and efficient operation (see permit condition part A, 2(a)). The Visual Site Inspection Report Form is enclosed and must be used to document these required site inspections.

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 operations and maintenance of the PCSM BMP is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees. Unless a later date is approved by the Department in writing, the permittee shall record an instrument as required under 25 Pa. Code § 102.8(m)(2) and condition 14b of this permit within 45 days from the date of issuance of this permit or authorization. The permittee shall provide the conservation district and the Department 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.

The Notice of Termination (NOT) form is also enclosed and must be completed and filed when construction activities have ceased and final stabilization has been achieved as a condition of this permit as specified in Section 4 of the permit regarding Notice of Termination. The NOT is a NPDES permit requirement, as well as a regulatory requirement under 25 Pa. Code § 102.7. The NOT must identify the responsible person(s) for the long term operation and maintenance of the Post Construction Stormwater Management (PCSM) BMPs. Please be advised that the permittee and/or co-permittee remain responsible for all operational maintenance for this project site until the NOT has been filed and acknowledged.

Persons aggrieved by an action of a conservation district under 25 Pa. Code Chapter 102 (Section VII NPDES NOI for Coverage under NPDES General Permits) may request an informal hearing with the Department within 30 days of publication of this notice in the Pennsylvania Bulletin, pursuant to 25 Pa. Code § 102.32(c). The Department will schedule this informal hearing within 30 days of the request. After this informal hearing, any final determination by the Department may be appealed to the Environmental Hearing Board as provided below.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501-508 and 701-704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the Pennsylvania Bulletin unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

If you have additional questions, please contact Eric Hout at 610-372-4657 ext. 205.

Sincerely,



Dean Druckenmiller
District Executive
Berks County Conservation District

cc: PA DEP SCRO w/N.O.I. & Permit Cover Sheet
Dean Auchenbach / PA DEP Central w/N.O.I.
John Pisula / Dawood Engineering w/ Permit Cover Sheet
Brian Boyer / Boyer Engineering LLC
Kraft Engineering
Borough of Birdsboro
Exeter Township
Robeson Township
File

Attachments: PAG02 General NPDES Permit
E&S Plan
PCSM Plan
Visual Site Inspection Report Form

Transferee/Co-permittee Application Form
Notice of Termination Form
PCSM Instrument Filing Notice
Attention Document
Construction Runoff Document