

May 14, 2020

PennEast Pipeline Company LLC
c/o Ms. Amber Holly
Environmental Project Manager
835 Knitting Mills Way
Wyomissing, Pa 19610

Re: Technical Deficiency Notification #2
PennEast Pipeline Project – Northampton County
DEP Application No. E48-435
APS ID# 893363, AUTH ID# 1111983
Bethlehem Township, East Allen Township, Easton City,
Lower Nazareth Township, Lower Saucon Township,
Moore Township, Upper Nazareth Township, & Williams Township
Northampton County

Dear Ms. Holly:

The Department of Environmental Protection (DEP) has reviewed your response to the July 3, 2019 Technical Deficiency Notification, received on October 30, 2019 and supplemental information received on March 30, 2020 for the above referenced application package and has identified the following continuing technical deficiencies. The Chapter 105 Dam Safety and Waterway Management regulations include information that will aid you in responding to some of the deficiencies listed below. The deficiencies are based on applicable laws and regulations. The referenced guidance set forth below provide DEP's preferred means of satisfying the applicable regulatory requirements.

Technical Deficiencies

1. Original Comment #5: It appears there are several wetlands and watercourses with inconsistencies in respect to the municipality where the resource is located on both the Aquatic Resources Impact Table (ARIT) and the Site-Specific Mapping. Please provide consistent municipality locations for watercourses and wetlands. Please revise all corresponding documentation accordingly (i.e. 050417_GM_1001_I_MI has Kidder Township which is not located within Northampton County). [25 Pa. Code §105.21(a)(1)]

This comment was not adequately addressed in the JPA Tech Def Response dated October 25, 2019. Please respond to the comment accordingly.

2. Original Comment #9: Stream 122016_LZ_1001_P_MI is considered to be a Trout Natural Reproduction waters, and therefore all wetlands hydrologically connected are

EV. Please verify if wetlands 042418_WA_001_PEM, 122016_LZ_1002_PEM, and 042418_WA_001_PSS meet this criterion. [25 Pa. Code §105.17(1)(iii)]

The 100-year floodplain is often different than the floodway, which is mapped. Please provide evidence that 042418_WA_001 is not hydrologically connected to the floodplain of stream 122016_LZ_1001_P_MI.

3. Original Comment #21: You appear to be proposing to construct permanent waterbars upslope of wetlands. These permanent waterbars should not divert surface water from the wetland as this may cause a secondary impact to the downgradient wetlands. Please provide information elaborating on the potentially affected wetland(s) hydrology and whether the proposed permanent waterbars will cause secondary impacts to those wetland(s). [25 Pa. Code §§ 105.18a(b)(1-3) and 105.14(b)(4)]

Please provide a more detailed response for small wetlands where this may be an issue (e.g. 051415_JC_1001_PEM). Discuss water budgets of the wetlands with evidence including delineated watersheds, landcovers, and primary hydrology sources when appropriate.

4. Original Comment #24: The Department does not recommend stockpiling soil or subsoil within the wetland. Evaluate the ability to stockpile soils outside wetland boundaries throughout project when possible. [25 Pa. Code §105.13(e)]

Please provide a more resource specific response, including which crossings will likely require stockpiling within wetland boundaries and a discussion on BMPs used to reduce compaction and mixing of soils. Consider placing this information in the Alternative Analysis Table.

5. Original Comment #27: Wetlands 110217_WA_008_PEM and 062415_BT_1002_PEM are very close to the bore pits. Please verify that the wetlands will not be impacted by the bore pit or consider moving the bore pit further away from this wetland. [25 Pa. Code §§105.13(e) and 105.21(a)(1)]

The response to the above deficiency did not discuss the ability to extend the bores at these locations. Please discuss the possibility of avoiding Wetlands 110217_WA_008_PEM and 062415_BT_1002_PEM by extending the bore and moving the bore pit.

6. Original Comment #49: Please include in the HDD Inadvertent Returns and Contingency Plan and the Erosion and Sediment Plans provisions to contact the Department immediately by email, phone, or electronically delivered letter if a loss of pressure or an inadvertent return occurs during the horizontal directional drilling operations. Drilling operations should not continue until a Professional Engineer (PE) or Professional Geologist (PG) has performed an inspection of the drilling site and drill alignment. The PE or PG should then notify the Department in writing that the drilling can commence without the risk of an inadvertent return.

Should an inadvertent return occur during drilling operations, a Re-evaluation Report should be submitted to the Department by the PE or PG examining the drilling alignment and ensuring that another inadvertent return is unlikely. The Department will need to review this submitted information and approve the restarting of drilling operations. [25 Pa. Code § 105.302(6)]

The response to the above deficiency adequately addressed concerns regarding the inadvertent return. However, the Department recommends that the HDD Inadvertent Returns and Contingency Plan also include the statement, “In the event of an unaccounted-for drilling fluid pressure loss, accompanied by losses in drilling fluid return volumes at the drill rig entry location where swabbing does not restore drilling fluid flow, the HDD Contractor will enact the HDD Inadvertent Return and Contingency Plan and notify the Department.”

7. Original Comment #55: In the Alternative Analysis Table: Riverine Resources (S4), some streams specifically state they can be crossed within 24 or 48 hours. Please state the expected crossing time for each resource. Based on previous projects, unexpected circumstances can arise during stream crossings which result in an extended crossing time. Please state if any streams are expected to exceed the recommended crossing time of 24-48 hours (respectively). Discuss the plan of action if the proposed crossing timeline is exceeded, and state the proposed timeline in both the AA table and construction narrative. [25 Pa. Code § 105.21(a)(1)]

The Alternatives Analysis Table’s justification for resource crossing 010615_JC_1000_E_MI states, “Estimated crossing timeframe is 24 hours,” but the Adhering to Construction Timing Windows Column is not checked. Please clarify.

8. Original Comment #60: In the Wetland and Riparian Reforestation Plan, consider replanting shrubs up to the 10-foot wide buffer (between 15 and 5 feet from center of pipeline) in exceptional value watersheds, where trees would otherwise not be permitted or consider replanting shrubs across the entire ROW, where tree roots would otherwise not be permitted, as stated in the EA Module 3 “A 10-foot wide operational easement centered on the pipeline will be maintained in an herbaceous or scrub/shrub vegetative state in emergent or scrub-shrub wetlands.” [25 Pa. Code §§105.16(d) and 105.18a(b)(3)(ii)(B)]

Please reconsider the above request, “In the Wetland and Riparian Reforestation Plan, consider replanting shrubs up to the 10-foot wide buffer (between 15 and 5 feet from center of pipeline) in exceptional value watersheds, where trees would otherwise not be permitted.” The planting of shrubs which grow less than 3-inch dbh or are less than 20 feet tall should not pose a risk to the pipe integrity. Planting shrubs would quicken reestablishment of shrub-scrub habitat, which PennEast will maintain with mowing less frequently than once every three years as stated in the EA section S4C.

9. Original Comment #63: The Department requests function and value mitigation at a rate of 2:1 for conversion impacts to “other” PFO wetlands, 2.5:1 for conversion impacts to EV PFO wetlands; 1.5:1 for conversion impacts to “other” PSS wetlands, and 1.75:1 for conversion impacts to EV PSS wetlands. [25 Pa. Code §§105.14(b)(13) and 105.20a(a)(2)]

The response and corresponding table are acceptable. The Department would like to reiterate that cleared PFO wetlands and grubbed PSS wetlands require more than a 1:1 mitigation ratio, regardless of whether they are located within the right of way or temporary workspace, owing to the time it takes for the resource to recover to its previous functions and values. The mitigation impacts are a different calculation from the impact tables elsewhere in the application. The Department recognizes PennEast’s commitment to replant impacts in the temporary work spaces as partial, but not entire, mitigation of these resources. Please assess the amount of mitigation needed for this project outside the 30-ft maintained ROW and incorporate this calculation into the total required mitigation.

10. Original Comment #64: Please submit final documents in the Compensatory Wetland Mitigation Plans that are not labelled “Draft.” [25 Pa. Code §§105.20a(a) and 105.21(a)(1)]

The Department understands that these documents will be finalized and filed with the county courthouse upon issuance of a PADEP and USACE permit. Please provide documentation within sixty days after permit issuance.

11. Original Comment #65: The off-site Compensatory Wetland Mitigation Plan Performance Standards provide for a contingency of 30% canopy cover prior to the end of monitoring.” Department guidance, Design Criteria - Wetlands Replacement/Monitoring, DEP Doc. No. 363-0300-001, suggests 85% survival of planted species and a monitoring period of not less than five years. The contingency regarding “30% canopy cover prior to end of monitoring” will not be acceptable. Please revise the off-site Compensatory Wetland Mitigation Plan Performance Standards to be consistent with the Department guidance. [25 Pa. Code §§105.20a(a), 105.21(a)(1), and 105.13(e)]

Although the statement regarding the 30% canopy contingency was removed, parameters for plant survival were not added to the application. Please provide performance standards for plantings. Moreover, the Module 4 document states “If survivorship is below 75% within a restored wetland or riparian area, PennEast will discuss remediation measures,” but this is not included in the monitoring plan. Please revise documents accordingly.

New Comments:

12. Post-Construction Wetland and Watercourse Monitoring Plan should also include the monitoring of secondary impacts to hydrology, i.e., the loss of hydrology, to all watercourses with a drainage area of less than 100 acres, including those watercourses that originate within the project ROW. This should be included in the 5 years of monitoring reports. Specifics should include:

- The monitoring reports shall contain information describing the presence or absence of hydrology at the time of inspection, a narrative comparison to hydrology present in the watercourse during pre-permitting field investigation(s), and photographs of the watercourse.
- If the monitoring identifies a diminution or complete loss of hydrology, the permittee shall evaluate whether the activities authorized by this permit caused the loss of hydrology and submit this evaluation to the Department for review.
- If the Department determines that the activities authorized by this permit are contributing to the loss of hydrology, the permittee shall prepare a written plan to correct the loss of hydrology to the watercourse. The permittee shall implement the approved plan within ninety (90) and submit this plan to DEP for review and approval. If DEP identifies any deficiencies with permittee's plan, then the permittee shall provide DEP a written response to address the stated deficiencies within 15 days of receiving written notice of DEP's deficiencies, unless DEP extends that timeframe in writing.

Please identify resources with a drainage of less than 100 acres and include the above language in the Monitoring Plans.

Pursuant to 25 Pa. Code §105.13a of DEP's Chapter 105 Rules and Regulations you must submit a response fully addressing each of the significant technical deficiencies set forth above. Please note that this information must be received within sixty (60) calendar days from the date of this letter, on or before **July 13, 2020**, or DEP may consider the application to be withdrawn by the applicant.

You may request a time extension, in writing, before **July 13, 2020** to respond to deficiencies beyond the sixty (60) calendar days. Requests for time extensions will be reviewed by DEP and considered. You will be notified in writing of the decision either to grant or deny, including a specific due date to respond if the extension is granted. Time extensions shall be in accordance with 25 Pa. Code §105.13a(b).

If you believe that any of the stated deficiencies is not significant, instead of submitting a response to that deficiency, you have the option of asking DEP to make a decision based on the information with regard to the subject matter of that deficiency that you have already made available. If you choose this option with regard to any deficiency, you should explain and justify how your current submission satisfies that deficiency. Please keep in mind that if you fail to respond, your application may be withdrawn or denied.

Should you have any questions regarding the identified deficiencies, please contact Michael Luciani, Application Manager, at 570-826-2597 or by email at mluciani@pa.gov and refer to the Application Number referenced above to discuss your concerns or to schedule a meeting. The meeting must be scheduled within the 60-day period allotted for your reply, unless otherwise extended by DEP. You may also follow your application through the review process via *eFACTS on the Web* at: <http://www.ahs2.dep.state.pa.us/eFactsWeb/default.aspx>.

Sincerely,



Kevin S. White, P.E.

Environmental Group Manager
Regional Permit Coordination Office

cc: Sarah Binckley, AECOM
Northampton County Conservation District
US Army Corps of Engineers, Philadelphia District
PA Fish & Boat Commission, Division of Environmental Services
Bethlehem Township
East Allen Township
Easton City
Lower Nazareth Township
Lower Saucon Township,
Moore Township
Upper Nazareth Township
Williams Township