

September 4, 2025

National Fuel Gas Supply Corporation  
c/o Lauren McMillan  
1100 State Street  
Erie, PA 16501

Re: Erosion and Sediment Control (E&S) Permit Issuance  
Tioga Pathways  
E&S Permit No. ESP830024001-00  
APS No. 1125803; AUTH ID No. 1506661  
Harrison Township & Allegany Township, Potter County  
Brookfield Township, Westfield Township, Deerfield Township, Chatham Township &  
Middlebury Township, Tioga County  
Liberty Township, McKean County

Dear Ms. McMillan:

Under the authority of Pennsylvania's Clean Streams Law, the Department of Environmental Protection (DEP) approves your application for a new Erosion and Sediment Control Permit for Stormwater Discharges Associated with Earth Disturbance Activities ("E&S Permit"). The latest versions of the permit application and all supporting documents, including the Erosion and Sediment Control (E&S) Plan and Post-Construction Stormwater Management (PCSM) Plan, are incorporated into this approval, including the following plan drawings:

- The E&S Plan drawings, for National Fuel Gas Supply Corporation Tioga Pathway Project Erosion and Sediment Control Plan, dated November 1, 2024, and last revised June 13, 2025.
- The PCSM Plan drawings for National Fuel Gas Supply Corporation Tioga Pathway Project Post Construction Stormwater Management/Site Restoration Plan, dated November 1, 2024, and last revised June 13, 2025.

Your E&S Permit, which has been assigned E&S Permit No. ESP830024001-00, is effective on **September 4, 2025**, and will expire on **September 3, 2030**. If stormwater discharges associated with earth disturbance activities are expected to continue beyond the expiration date of the E&S Permit, you must apply to renew your permit at least 180 days prior to the expiration date, unless otherwise approved by DEP.

Please review the E&S Permit and the enclosed attachments carefully and contact this office if you have any questions. Please pay particular attention to the following requirements of the permit:

- Operators who are not the permittee shall be co-permittees. Following approval of coverage, the permittee shall require any operator, as defined in this permit, that was not identified on the application for permit coverage to complete and sign the Co-Permittee

Acknowledgement for Chapter 102 Permits form (3800-FM-BCW0271a) prior to commencing earth disturbance activities covered by this permit. The permittee shall complete and sign the Co-Permittee Acknowledgement form, retain the form for a period no less than three (3) years, and submit the form to the Department or conservation district prior to the operator engaging in earth disturbance activities.

- 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 7 calendar day notice of the pre-construction meeting to all invited attendees by telephone, certified mail, or electronic means, unless otherwise approved by the Department in writing. The notification must include the project type, target date for earth disturbance, permit number, site name, Township, County and point of contact for the operator. 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.
- The permittee shall visually inspect the project site weekly, at a minimum, and within 24 hours each stormwater event throughout the duration of construction and until the receipt and acknowledgement of the NOT by the Department or conservation district. The visual site inspections shall be completed by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that E&S BMPs are properly constructed and maintained to effectively minimize pollution to waters of the Commonwealth.
- The permittee shall document all visual inspection on DEP's Chapter 102 Visual Site Inspection Report (3800-FM-BCW0271d). All information on the Visual Site Inspection Report must be completed. The report shall be completed by qualified personnel, trained and experienced in erosion and sediment control. Visual inspection reports shall be submitted to the Department or conservation district upon request. All visual inspection reports shall be made available on the project site for review by the Department or conservation district.
- For any property containing a PCSM BMP, the permittee shall record an instrument with the recorder of deeds which will assure disclosure of the PCSM/SR BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM/SR BMP, provide for necessary access related to long-term operation and maintenance for PCSM/SR BMPs and provide notice that the responsibility for long-term operation and maintenance of the PCSM/SR BMP 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 § 102.7(b)(5).

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) within 45 calendar days from the date of issuance of this permit or authorization. Unless the Department 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 the Department, in writing, the permittee shall provide the Department or conservation district with the date and place of recording along with a reference to the docket, deed book or other record, within 90 calendar days from the date of issuance of this permit or authorization.

- Upon permanent stabilization of earth disturbance activity under § 102.22(a)(2) (relating to permanent stabilization) and installation of BMPs in accordance with the authorized plan prepared and implemented in accordance with §§ 102.4 and 102.8 (related to erosion and sediment control requirements; and PCSM requirements), the permittee shall submit a NOT to the Department or conservation district.

Until the permittee has received written authorization of the NOT, the 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) (relating to PCSM long-term operation and maintenance requirements). The Department or conservation district will conduct a final inspection and approve or deny the NOT within 30 calendar days of receipt in accordance with 25 Pa. Code § 102.7(c) (relating to permit termination).

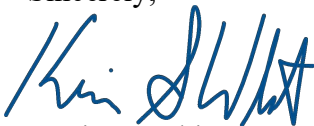
Any person aggrieved by this action may challenge it in an appropriate legal forum. The state and federal courts have held that an aggrieved person may challenge a Department permit, authorization or approval for a facility or activity subject to the Federal Natural Gas Act, 15 U.S.C. § 717 *et seq.* by filing an appeal with the Pennsylvania Environmental Hearing Board. *See Transcontinental Gas Pipeline Co. v. Env't Hrg. Bd.* 108 F.4th 144, 163 (3d Cir. 2024); *Cole v. Dep't of Env't Prot.*, \_\_\_ A.3d \_\_\_ (Dkt Nos. 21 & 22 EAP 2023, 77 & 78 MAP 2023) (Issued January 22, 2025). Additionally, the U.S. Court of Appeals for the Third Circuit (Third Circuit) has held that an aggrieved person may challenge a Department permit, authorization or approval for a facility or activity subject to the Federal Natural Gas Act by commencing a civil action in the Third Circuit. *See Transcontinental Gas Pipeline Co.*

You should promptly consult with a lawyer on the steps to take if you wish to challenge this action and how to best protect your interests.

**IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE.**

If you have questions about your application, please contact Michael Luciani by phone at 570-826-2597 or by email at [mluciani@pa.gov](mailto:mluciani@pa.gov) and refer to the permit number referenced above.

Sincerely,



Kevin S. White, P.E.

Director

Regional Permit Coordination Office

cc: Robin Dingle, Tetra Tech, Inc. (by email)  
Northcentral Regional ARD (by email)  
Northcentral Regional Waterways and Wetlands PM (by email)  
Northwest Regional ARD (by email)  
Northwest Regional Waterways and Wetlands PM (by email)  
Tioga County Conservation District (by email)  
Brookfield Township (by email)  
Westfield Township (by email)  
Deerfield Township (by email)  
Chatham Township (by email)  
Middlebury Township (by email)  
Potter County Conservation District (by email)  
Harrison Township (by email)  
Allegany Township (by email)  
McKean County Conservation District (by email)  
Liberty Township (by email)

Enclosures and References:

E&S Permit

[Visual Site Inspection Report Form and Instructions](#)

Form Link : <http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=2713>

[Co-Permittee Acknowledgement Form for Chapter 102 Permits and Instructions](#)

Form Link : <http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=2713>

[Notice of Termination Form](#)

Form Link : <http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3668>

**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: ESP830024001-00**

In compliance with the provisions of Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*, 58 Pa.C.S. §§ 3201-3274 (2012 Oil and Gas Act) and the regulations promulgated thereto, including 25 Pa. Code Chapters 78a and 102, and Sections 1905-A and 1917-A of the Administrative Code of 1929, 71 P.S. Sections 510-5, 510-17 and 510-20,

Permittee

**National Fuel Gas Supply Corporation  
1100 State Street  
Erie, PA 16501**

Project Site

**Tioga Pathways  
Harrison Township & Allegany Township, Potter  
County  
Brookfield Township, Westfield Township, Deerfield  
Township, Chatham Township & Middlebury  
Township, Tioga County  
Liberty Township, McKean County  
Earth Disturbance: 359.3 acres**

is authorized to discharge from earth disturbance activities associated with oil and gas activities to **Marsh Creek (CWF), tributaries to Marsh Creek (CWF), North Branch Cowanesque River (CWF), tributaries to North Branch Cowanesque River (CWF), North Fork Cowanesque River (CWF), tributaries to North Fork Cowanesque River (CWF), California Brook (WWF), tributaries to California Brook (WWF), Cowanesque River (WWF), tributaries to Cowanesque River (WWF), Jemison Creek (WWF), tributaries to Jemison Creek (WWF), Boatman Brook (WWF), tributaries to Boatman Brook (WWF), tributaries to Crooked Creek (WWF), tributaries to Losey Creek (WWF), Rose Lake Run (HQ-CWF)** in accordance with the application submitted to the Department of Environmental Protection (Department) and accompanying plans and additional information, as revised, subject to the requirements specified herein.

**THIS PERMIT SHALL BECOME EFFECTIVE ON September 4, 2025**

**THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON September 3, 2030**

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. The 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. The permittee and co-permittee(s) must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of The 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.
3. A complete application for renewal of this permit or notice of intent to cease discharging by the expiration date, must be submitted to the Department at least 180 calendar days prior to the above expiration date (unless permission has been granted by the Department for submission at a later date), using the appropriate E&S permit application form.

**REGIONAL PERMIT COORDINATION OFFICE**

In the event that a timely and complete application for renewal has been submitted and the Department is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application.



**ISSUANCE DATE:**

**September 4, 2025**

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**Kevin S. White, P.E.**

**Director**

**Regional Permit Coordination Office**

## PART A – EFFLUENT LIMITATIONS, RECORDKEEPING AND REPORTING REQUIREMENTS

### I. DEFINITIONS

**ABACT** – Antidegradation Best Available Combination of Technologies – Environmentally sound and cost effective treatment, land disposal, pollution prevention and stormwater reuse BMPs that individually or collectively manage the difference in the net change in stormwater volume, rate, and quality for storm events up to and including the 2-year/24-hour storm when compared to the stormwater rate, volume, and quality prior to the earth disturbance activities to maintain and protect the existing quality of the receiving surface waters of this Commonwealth.

**Accelerated Erosion** means 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.

**Act 167** means the Storm Water Management Act (32 P.S. § § 680.1—680.17)

**Best Management Practices** (BMPs) means 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 the existing and designated uses of waters within this Commonwealth before, during, and after earth disturbance activities.

**Clean Streams Law** means the Act of June 22, 1937, P.L. 1987, No. 394, as amended.

**Conservation District** means a conservation district, as defined in section 3(c) of the Conservation District Law (3 P.S. § 851(c)), which 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 this Commonwealth.

**DEP or Department** means the Pennsylvania Department of Environmental Protection.

**Designated Uses** means those uses specified in 25 Pa. Code §§ 93.4(a) and 93.9a—93.9z for each water body or segment, whether or not they are being attained.

**Disturbed area** means unstabilized land area where an earth disturbance activity is occurring or has occurred.

**Earth Disturbance Activity** means 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 and Sediment Control (E&S) Plan** means 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.

**Exceptional Value Waters** means surface waters of high quality which satisfy 25 Pa. Code § 93.4b(b) (relating to antidegradation).

**High Quality Waters** means surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying 25 Pa. Code § 93.4b(a).

**Licensed Professional** means professional engineers, landscape architects, geologists and land surveyors licensed to practice in this Commonwealth.

**Municipality** means a county, city, borough, town, township, school district, institution or authority or another public body created by or pursuant to State law. For purposes of this definition, town includes an incorporated town.

*Notice of Termination (NOT)* means a request, on a form provided by DEP, to terminate coverage under an Erosion and Sediment Control Permit for Stormwater Discharges Associated with Construction Activities or other permits under Chapter 102.

*Oil and gas activities* means earth disturbance associated with oil and gas exploration, production, processing or treatment operations or transmission facilities.

*Operator* means a person who has one or more of the following: (i) 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, (ii) 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.

*Permanent Stabilization* means long-term protection of soil and water resources from accelerated erosion.

*Permittee* means the 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 co-permittee(s) for compliance with all conditions of this permit and applicable laws.

*Person* means 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.

*Pollutant* means any contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water that causes or has the potential to cause pollution as defined in Section 1 of the Clean Streams Law (35 P.S. § 691.1).

*Post Construction Stormwater* mean stormwater associated with a project site after the earth disturbance activity has been completed and the project site is permanently stabilized.

*Post-Construction Stormwater Management (PCSM) Plan* means 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.

*Preparedness, Prevention and Contingency (PPC) Plan* means 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 this Commonwealth.

*Project site* means the entire area of activity, development, lease or sale including (i) the area of earth disturbance activity, (ii), the area planned for an earth disturbance activity, and (iii) other areas which are not subject to an earth disturbance activity.

*Riparian Buffer* means a BMP that is an area of permanent vegetation along surface waters.

*Riparian Forest Buffer* means a type of riparian buffer that consists of permanent vegetation that is predominantly native trees, shrubs and forbs along surface waters that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, and separate land use activities from surface waters.

*Stabilization* means 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* means runoff from precipitation, snowmelt, surface runoff and drainage.

*Surface waters* means 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.

*Waters of the Commonwealth* means rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all 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* means 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. 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 the Department'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 the Department's Erosion and Sediment Pollution Control Program Manual, Document Number: 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 the Department's regulations, including 25 Pa. Code § 102.8 (relating to PCSM requirements) and 102.11 (a)(2), and identified in the Department's Pennsylvania Stormwater Best Management Practices Manual, Document Number 363-0300-002, as amended and updated, or an approved alternative that is 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 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 the Department, 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

A. Monitoring

1. The Department or conservation district may require additional 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.
2. The Department or conservation district may require monitoring of stormwater discharges for Total Suspended Solids (TSS) turbidity or other pollutants when DEP suspects the discharge of pollutants from an earth disturbance activity covered by this permit.

3. The permittee shall commence such monitoring upon notification from the Department or conservation district. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

B. Recording the Results

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

1. The date, exact place, and time of sampling or measurements.
2. The individual(s) who performed the sampling or measurements.
3. The date(s) analyses were performed.
4. The individual(s) who performed the analyses.
5. The analytical techniques or methods used.
6. The results of such analysis.

C. Visual Inspections

1. The permittee shall visually inspect the project site weekly, at a minimum, and within 24 hours each stormwater event throughout the duration of construction and until the receipt and acknowledgement of the NOT by the Department or conservation district. The visual site inspections shall be completed by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that E&S BMPs are properly constructed and maintained to effectively minimize pollution to waters of the Commonwealth.
2. The permittee shall document all visual inspection on DEP's Chapter 102 Visual Site Inspection Report (3800-FM-BCW0271d). All information on the Visual Site Inspection Report must be completed. The report shall be completed by qualified personnel, trained and experienced in erosion and sediment control. Visual inspection reports shall be submitted to the Department or conservation district upon request. All visual inspection reports shall be made available on the project site for review by the Department or conservation district.
3. The permittee or permittee(s) shall prepare a long-term operation and maintenance schedule which provides for inspection of PCSM BMPs, including repair, replacement, or other routine maintenance of the PCSM BMPs to ensure proper function and operation. The permittee shall document each inspection and all BMP repair and maintenance activities and how access to the PCSM BMPs will be provided.
4. Each inspection must include an evaluation of E&S, PCSM and PPC BMPs, as applicable, to determine whether the BMPs are adequate and properly implemented in accordance with the terms of this permit or whether additional control measures are needed. If needed, such measures shall be implemented immediately, and the Department or conservation district shall be notified.
5. Each inspection must include an evaluation of equipment needed to implement E&S, PCSM, and PPC Plans, such as spill response equipment, as applicable.
6. If the permittee discovers conditions in the field that pose a threat of pollution to waters of the Commonwealth, the permittee shall immediately implement remedial measures to correct the conditions and cease earth disturbance activities. Thereafter the permittee shall submit a plan and schedule to the Department or conservation district for review and approval to resume earth disturbance activities. The permittee shall implement the approved plan.

D. Licensed Professional Oversight of Critical Stages

1. A licensed professional or a designee shall be present onsite and be responsible during critical stages of implementation of the approved PCSM Plan. Critical stages may include the installation of underground treatment or storage BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by the Department or conservation district.
2. The licensed professional or designee shall document findings related to implementation of critical stages of the PCSM Plan. The permittee shall retain this documentation for no less than 3 years from the date of NOT approval and provide it to the Department or conservation district upon request.

E. Non-Compliance 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 shall, within 24 hours, contact DEP/County Conservation District (CCD), by phone or personal contact, followed by the submission of a written report within 5 calendar 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; and
4. The date or schedule of dates and identifying remedies for correcting noncompliance conditions.

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

F. Availability of Reports

Except for data determine 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 RETENTION

- A. The permittee shall retain all records of monitoring activities and results, copies of all plans and reports required by this permit, and records of all data used to complete the application for this permit, for at least three (3) years from the date of the Notice of Termination (NOT) approval. The permittee shall submit such records to DEP/CCD upon request. This period of retention must be extended during the course of any unresolved compliance, enforcement, or litigation or when requested by the Department or conservation district.
- B. The permittee shall retain a physical or electronic copy of this permit, the application submitted for permit issuance, all attachments to the application, and the E&S Plan, PCSM Plan, and PPC Plan, as applicable, at the project site during earth disturbance activities, and shall make these documents available for review by the Department, conservation district, or other authorized local, state, or federal agent or representative.

#### V. SIGNATORY REQUIREMENTS

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

- A. Permits, Transferee/Co-permittee Form, and NOTs.
  - 1. Corporations: (a) 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 (b) 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;
  - 2. Partnerships or sole proprietorships: a general partner or the proprietor, respectively;
  - 3. Municipalities, State, Federal, or other public agencies: either a principal executive officer or ranking elected official such as: (a) the chief executive officer or secretary of the agency, or (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of the U.S. Environmental Protection Agency).
- B. All reports, plans, documents, and other information required by the permit or requested by the Department or conservation district shall be signed by a duly authorized representative of the permittee.
- C. If there is a change in the duly authorized representative of the permittee, the permittee shall notify the Department or conservation district within 30 calendar days of the change.

## 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 the Department or conservation district 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 terms for any of the cause 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:
  - a. Violation of any terms or conditions of the permit.
  - b. Obtaining a permit by misrepresentation or failure to discuss fully all relevant facts.
  - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
3. The filing or a request by the 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 § 102.22(a)(2) (relating to permanent stabilization) and installation of BMPs in accordance with the authorized plan prepared and implemented in accordance with §§ 102.4 and 102.8 (related to erosion and sediment control requirements; and PCSM requirements), the permittee shall submit a NOT to the Department or 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 has received written authorization of the NOT, the 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) (relating to PCSM long-term operation and maintenance requirements). The Department or conservation district will conduct a final inspection and approve or deny the NOT within 30 calendar 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" with a final, signed certification statement from a licensed professional, which reads 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 authorized PCSM plan or Site Restoration plan, all authorized plan changes and accepted construction practices."

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

C. Duty to Provide Information

1. The permittee shall furnish to the Department or conservation district within 30 calendar days of the date of the request any information which the Department or conservation district may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit, or to determine compliance with this permit.
2. The permittee shall furnish to the Department or conservation district, upon request, copies of records required to be kept by this permit.
3. When the permittee becomes aware that they failed to submit any relevant facts or submitted incorrect information in the permit application, E&S Plan, PCSM/SR Plan, or PPC Plan or in any other report to the Department or conservation district, the permittee shall within 24 hours of becoming aware of the deficiency submit or correct such facts or information.
4. The permittee shall give seven (7) calendar days advance notice to the Department or conservation district by telephone, certified mail or electronic means of the intent to commence earth disturbance activities. The notification must include the project type, target date for earth disturbance, permit number, Site name, Township, County and point of contact for the operator and notification may occur prior to receipt of coverage under this permit.
5. The permittee shall give 30 calendar days advance notice to the Department or 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. Transfer of Ownership or Control

1. This permit is not transferable to any person except after notice and acknowledgment by the Department or conservation district.
  - a. In the event of any pending change in control or ownership of facilities, the permittee shall notify the Department or conservation district using the form entitled "Transferee/Co-permittee Application" (8000-PM-OOGM0009) of such pending change at least 30 calendar days prior to the change in ownership or control. If the permittee undergoes a name change, the permit must be reissued under the new name. The permittee, however, is not required to submit the Transferee/Co-permittee Application. Instead, the permittee must submit a copy of its Department of State filings to the Department.
  - b. The transfer 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 transfer application form, the Department or conservation district shall notify the existing permittee and the new owner or operator of its decision concerning authorization of the transfer of ownership or control.

- d. All relevant conditions of any prior permits, decrees or orders issued to the permittee or their predecessor shall be continued in full force and effect unless explicitly superseded by this permit. The provisions of this permit shall apply to the permittee's successors, lessees, heirs, and assigns. Permit ownership and/or responsibilities may be transferred or shared after written notice to, and upon authorization from the Department or conservation district. The notice shall be provided to the Department or conservation district at least 30 calendar days prior to the effective date of new ownership or permit responsibility. The transfer does not need to be published in the *Pennsylvania Bulletin*.
  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 the Department or conservation district by submitting an administratively complete and acceptable Transferee/Co-permittee Application; 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. After receipt of the documentation described in (b) above, the permit will be considered modified by the Department or conservation district. For the purposes of this permit, this modification is considered to be a minor permit modification.
  4. Upon authorization of a change in ownership or control, the existing permittee shall provide a copy of the permit and authorized plans to the new owner and/or co-permittee.
- E. Co-Permittee Requirements for Operators.
1. Operators who are not the permittee shall be co-permittees. Following approval of coverage, the permittee shall require any operator, as defined in this permit, that was not identified on the application for permit coverage to complete and sign the Co-Permittee Acknowledgement for Chapter 102 Permits form (3800-FM-BCW0271a) prior to commencing earth disturbance activities covered by this permit. The permittee shall complete and sign the Co-Permittee Acknowledgement form, retain the form for a period no less than three (3) years, and submit the form to the Department or conservation district prior to the operator engaging in earth disturbance activities.
  2. If an operator completes its job responsibilities, the operator may elect to terminate its responsibilities under the permit, prior to submission of a NOT by the permittee, by completing and signing a Co-Permittee Liability Release form (3800-FM-BCW0271). These forms shall be signed by the permittee, retained by the permittee for a period no less than three (3) years, and submitted to DEP/CCD.
- 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 is 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 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 shall take immediate action to restore, repair, 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 installs. These actions should be undertaken to ensure

that there are no pollution 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.

## II. COMPLIANCE RESPONSIBILITIES

### A. Duty to Comply

The 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 denial of a permit or permit renewal.

### B. Penalties for Violation 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 Section 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 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 a legal action or relieve the 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, not any exclusive privileges, nor does it authorize any injury to private property nor any invasion or personal rights, not any infringement of federal, state, or local laws or regulations.

### F. Severability

The provisions in 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. 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 or 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).

### H. Incorporation of Application.

This permit granted based, in part, on information provided by the applicant in the application. The information provided by the applicant, including all attachments, plans and supporting documentation, are incorporated by reference as part of the approval and are enforceable as a condition of the approval. If there is any conflict between the permit and the application, including any attachments, plans, and other supporting documentation, the more protective provision applies.

I. Right of Entry.

Pursuant to the Pennsylvania Clean Streams Law 35 P.S. §§ 691.5(b) and 691.305, 25 Pa. Code Chapter 92a, and § 1917-A of the Administrative Code, the permittee shall allow an authorized representative of the Department, conservation district, or, in the case of a facility which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator or 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 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); and
4. Observe or sample any discharge of stormwater.

J. Other Laws.

No condition of this permit releases the permittee from any responsibility, requirement, or liability under federal or Pennsylvania statutes or regulations or any local ordinance.

**III. OPERATING CONDITIONS**

- A. 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.
- B. All building materials and wastes must be removed from the site and recycled or disposed, in accordance with the Department's Regulations at 25 Pa. Code Chapters 78, 78a, 260, 271, and 287. Procedures which ensure that the proper disposal or recycling of materials associated with or from the project site will be undertaken in an environmentally safe manner and in accordance with Federal and State law and regulations shall be implemented. No waste or material shall be disposed, buried, dumped, or discharged at the project site unless it is in accordance with Federal and State law and regulations.
- C. The permittee shall contact the plan preparer for clarification of any requirements contained in the E&S Plan, PCSM/SR Plan, PPC Plan, or other documents related to this permit. If additional clarification is necessary, the permittee shall contact the Department or conservation district.
- D. Where infiltration BMPs are being utilized, the permittee must ensure that soil compaction is avoided or minimized in those areas. If the areas planned for infiltration BMPs are compromised, additional soil testing must be performed to verify that the BMP will perform as planned.
- E. Upon final completion of an earth disturbance activity or any stage or phase of an activity the project site shall be immediately stabilized in accordance with the requirements of 25 Pa. Code § 102.22(a). E&S BMPs shall be implemented and maintained until permanent stabilization is completed. Once permanent stabilization has been established the temporary E&S BMPs shall be removed. Any areas disturbed in the act of removing temporary E&S BMPs shall be permanently stabilized upon completion of the temporary E&S BMP removal activity.
- F. Upon temporary cessation of the earth disturbance activity, or completion of any stage or phase of an activity where the cessation of earth disturbance will exceed 4 calendar days the project site shall be immediately stabilized in accordance with the requirements of 25 Pa. Code § 102.22(a). E&S BMPs shall be implemented and maintained until permanent stabilization is completed. Once permanent stabilization has been established the temporary E&S BMPs shall be removed. Any areas disturbed in the act of removing temporary E&S BMPs shall be permanently stabilized upon completion of the temporary E&S BMP removal activity.

## **PART C – SPECIAL CONDITIONS**

### **I. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE PERMIT**

The permittee must comply with all terms and conditions of this permit. Any permit non-compliance constitutes a violation of The Clean Streams Law and 25 Pa Code Chapter 102 and is grounds for enforcement action or suspension of authorization: revocation, modification, and reissuance, or denial of a under permit. The permittee may be subject to criminal and/or civil penalties 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.

### **II. PROHIBITED DISCHARGES**

- A. All discharges covered by this permit shall be comprised 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 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 or being, inimical to the water uses to be protected or human, animal, plant or aquatic life.

### **III. PRE-CONSTRUCTION MEETING AND NOTIFICATION**

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 7 calendar day notice of the pre-construction meeting to all invited attendees by telephone, certified mail or electronic means, unless otherwise approved by the Department in writing. The notification must include the project type, target date for earth disturbance, permit number, site name, Township, County and point of contact for the operator. 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.

### **IV. 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.
- C. The staging of earth disturbance activities and maintenance requirements contained in the approved E&S Plan must be followed.
- D. After installation or stabilization of all perimeter sediment control BMPs, the Department or conservation district shall be notified at least 3 calendar days prior to proceeding with the bulk earth disturbance activities. Bulk earth disturbance activities are defined as any earth disturbance for construction purposes other than the minimum amount of disturbance required for installation of perimeter sediment control BMPs. Notification to the Department or conservation district shall be made by telephone, certified mail or electronic means and include the project type, target date for bulk earth disturbance, permit number, site name, Township, County and point of contact for the operator.
- 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. Stripped topsoil to be used for site stabilization (temporary or permanent) and site restoration must be stockpiled separately from the subsoil.
- H. 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.
- I. 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 *Pennsylvania Stormwater Best Management Practices Manual*, Document Number: 363-0300-002, as amended and updated. See BMP 6.7.3, Chapter 6, page 221. For areas where stone and/or timber mats were used for temporary stabilization and/or access de-compaction must be done by aggressively fracturing (lateral and vertical fracturing of the exposed and compacted subsoil, down and through, to the bottom) the subsoil to a depth of the affected thickness of the subsoil but no less than 16 inches below the surface of the subsoil with the appropriate "heavy duty" agricultural grade deep ripper. In all other areas, aggressive fracturing of the subsoil must be done to a depth of the affected thickness of the subsoil but no less than 24 inches below the surface of the subsoil.
- J. Prior to topsoil application, graded areas will be scarified to depth of 3 to 5 inches minimum to allow for bonding of the topsoil to the surface of the subsoil. Topsoil must be uniformly distributed across the disturbed area to a depth of 4 to 8 inches, minimum.
- K. 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.
- L. 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.
- M. The Permittee shall backfill the pipe trench within 30 calendar days of excavating.

**V. SITE RESTORATION/POST-CONSTRUCTION STORMWATER (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 project site at all times.
- C. A licensed professional or their designee shall be present on the project 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(1) 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. In accordance with 25 Pa. Code § 102.8(n), the portion of the Site 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 Pennsylvania Stormwater Best Management Practices Manual, Document Number: 363-0300-002, as amended and updated. See BMP 6.7.3, Chapter 6, page 221). For areas where stone and/or timber mats were used for temporary stabilization and/or access de-compaction must be done by aggressively fracturing (lateral and vertical fracturing of the exposed and compacted subsoil, down and through, to the bottom) the subsoil to a depth of the affected thickness of the subsoil but no less than 16 inches below the surface of the subsoil with the appropriate "heavy duty" agricultural grade deep ripper. In all other areas, aggressive fracturing of the subsoil must be done to a depth of the affected thickness of the subsoil but no less than 24 inches below the surface of the subsoil.
- H. Prior to topsoil application, graded areas will be scarified to depth of 3 to 5 inches minimum to allow for bonding of the topsoil to the surface of the subsoil. Topsoil must be uniformly distributed across the disturbed area to a depth of 4 to 8 inches, minimum.
- I. In accordance with the E&S and Site Restoration Plans, all areas to be restored must achieve at a minimum meadow in good condition or otherwise incorporate ABACT or nondischarge PCSM BMPs.
- J. Upon reduction, loss, or failure of any PCSM BMP, the permittee shall immediately take measures to prevent pollution to waters of the Commonwealth and adverse impacts to the environment. The permittee shall immediately submit to DEP for review and approval a Corrective Action Plan (CAP) and, if necessary, a permit modification, which shall include a schedule for the repair and/or replacement of the PCSM BMP. Upon DEP's approval of the CAP, the permittee shall implement the CAP.
- K. The permittee shall implement PCSM BMPs as detailed in the approved PCSM Plan. Any changes to the PCSM Plan, including the introduction of alternate PCSM BMPs or the elimination of any approved PCSM BMPs, must be approved by DEP prior to the implementation of these changes.
- L. PCSM Plans shall be consistent with any current Department authorized Act 167 Stormwater Management Plan which covers the area where the project is proposed.

## **VI. PREPAREDNESS, PREVENTION, AND CONTINGENCY (PPC) PLANS**

The permittee shall prepare and implement a PPC Plan when storing, using or transporting materials including: fuels, chemicals, solvents, pesticides, fertilizers, lime, petrochemicals, wastewater, wash water, core drilling wastewater, cement, sanitary wastes, solid wastes or hazardous materials onto, on or from the project site during earth disturbance activities. 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 or any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, concrete wastewaters, etc. BMPs shall be prepared and implemented for each identified area. The PPC Plan shall be maintained on the project site at all times and shall be made available for review at the request of the Department or conservation district.

## **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 the Department or conservation district and implemented for all spoil and borrow areas, regardless of their locations.
- B. Any person intending to use fill material must adhere to the Department's Management of Fill Policy (Document Number: 258-2182-773). Prior to the movement of fill to a receiving site, a fill determination, which includes performing adequate environmental due diligence, must be completed. If fill is known or is suspect to have been affected by a spill or release of a regulated substance, analytical testing must be completed to determine if the fill meets the requirements to be used as clean fill or regulated fill. If the material meets the requirements

for clean fill, DEP Form FP-001 (Certification of Clean Fill) must be completed and submitted to DEP electronically on the DEP website at <https://www.dep.pa.gov/Business/Land/Waste/SolidWaste/Residual/Pages/default.aspx>. Both the donor site and the receiving site are responsible for maintaining copies of the completed Form FP-001 for a period of five (5) years. Fill material meeting the requirements for regulated fill must be managed in accordance with the Department's municipal or residual waste regulations, 25 Pa. Code § 271.2 and § 287.2, respectively, whichever is applicable, and may be beneficially used in accordance with General Permit No. WMGR096.

## VIII. STABILIZATION

The time period between the trench excavation to the beginning of disturbed area stabilization for the main line pipeline installation shall not exceed 30 calendar days, unless sufficient justification for an extension of time is provided to and approved by the Department 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 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.

## IX. LONG-TERM OPERATION AND MAINTENANCE OF PCSM BMPs

- A. The permittee shall be responsible for long-term operation and maintenance (O&M) 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/SR BMP, the permittee shall record an instrument with the recorder of deeds which will assure disclosure of the PCSM/SR BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM/SR BMP, provide for necessary access related to long-term operation and maintenance for PCSM/SR BMPs and provide notice that the responsibility for long-term operation and maintenance of the PCSM/SR BMP 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 § 102.7(b)(5).
- 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 contains 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 records 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 O&M and provide notice thereof to the Department or conservation district.
- E. A permittee that fails to transfer long-term O&M of the PCSM BMPs or otherwise fails to comply with this requirement, shall remain jointly and severally responsible with the landowner for long-term O&M of the PCSM BMPs located on the property. (25 Pa. Code § 102.8(m)(5))
- F. 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) within 45 calendar days from the date of issuance of this permit or authorization. Unless the Department 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 the Department, in writing, the permittee shall provide the Department or conservation district with the date and place of recording along with a reference to the docket, deed book or other record, within 90 calendar days from the date of issuance of this permit or authorization.
- G. Unless an alternative process is approved by the Department or conservation district 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 O&M 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 the Department in writing, the permittee shall provide the Department or conservation district with notice of compliance with this section within 45 calendar days from the date of transfer of the property and at the time the permittee files a NOT.

#### **X. TRAINING**

- A. Prior to commencement of construction activities or commencement of work on the project site, the permittee shall ensure that the following personnel understand the requirements of and their specific responsibilities under this permit:
  - 1. Personnel responsible for the installation, maintenance, and/or repair of E&S and PCSM BMPs and implementation of the PPC Plan.
  - 2. Personnel responsible for the application and storage of treatment chemicals (if applicable).
  - 3. Personnel responsible for conducting inspections.
  - 4. Personnel responsible for taking corrective actions.
- B. The permittee is responsible for ensuring that all activities on the project site comply with the requirements of this permit. The permittee and co-permittee are not required to provide or document formal training for subcontractors or other outside service providers, but the permittee must ensure that personnel understand any requirements of this permit that are relevant to the work they are subcontracted to perform.
- C. At a minimum, the permittee must ensure that personnel understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections).
  - 1. When and how to conduct site inspections, record applicable findings, and take corrective actions.
  - 2. The permit deadlines associated with installation, maintenance, removal of stormwater controls, and site stabilization.
  - 3. The location of all stormwater controls on the project site required by this permit and how they are to be maintained.
  - 4. The proper procedures to follow with respect to the permit's pollution prevention requirements and when to notify DEP/CCD of potential pollution and changes to earth disturbance activities.
- D. A training log must be kept on-site and made available upon request from EPA, DEP, or CCD staff.
- E. All personnel must have access at all times during earth disturbance activities to an electronic or paper copy of this permit, the approved copies of the E&S, PCSM and PPC Plans, and other relevant documents or information that must be kept with these plans.

#### **XI. ARCHAEOLOGICAL SPECIMENS**

- A. 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/CCD and the Pennsylvania Historical and Museum Commission (PHMC) (Phone: (717) 783-8947).
- B. When conducting earth disturbance activities, the permittee shall protect archeological specimens and historic resources in accordance with applicable Federal and State laws.

## **XII. 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 the Department prior to initiation of any work under this permit.
- B. If any potential impact to federal or state threatened or endangered species is identified on the Pennsylvania Natural Diversity Inventory (PNDI) receipt, the permittee shall implement any avoidance/mitigation measures indicated on the PNDI receipt and/or other measures determined necessary by the resource agencies in a clearance letter, determination or other correspondence to resolve potential species impacts and ensure compliance with applicable federal and State laws pertaining to the protection of Federal or state threatened and endangered species.
- C. When conducting earth disturbance activities, the permittee has a continuing obligation to ensure compliance with applicable federal and state laws pertaining to the protection of federal or state threatened and endangered species.
- D. If construction or blasting occurs between April 15 and October 15, the permittee shall comply with all protocols set forth by the Pennsylvania Fish and Boat Commission (PFBC) for protection of the Timber Rattlesnake *Crotalus horridus* (Timber Rattlesnake).
- E. To minimize the potential for impact to state and federally listed bat species, the permittee shall conduct pipeline construction activities involving ground disturbance (i.e., trenching, grading, mechanized tree felling, and pipeline installation) between April 1 and November 15.
- F. To minimize the potential for impact to state and federally listed bat species, the permittee shall conduct tree cutting between November 16 and March 31.
- 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).

## **XIII. WETLAND PROTECTION**

If hydric soils or other wetland features are present on the project site, the permittee shall conduct a wetland determination in accordance with DEP procedures. A copy of that wetland determination must be provided to DEP/CCD as an attachment to the application, and all wetlands must be identified 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 during earth disturbance activities.

## **XIV. INFILTRATION BMPS**

Where infiltration and/or restoration BMPs are being utilized, the 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 *Pennsylvania Stormwater Best Management Practices Manual*, Document Number: 363-0300-002, as amended and updated. See BMP 6.7.3, Chapter 6, page 221. Additional soil testing must be performed to verify that the BMPs will perform as planned.

## **XV. ANTIDEGRADATION REQUIREMENTS**

The permittee shall implement a non-discharge alternative and/or the ABACT E&S and PCSM BMPs identified in Antidegradation Analysis Module 3 (3800-PM-BCW0406c) and the approved E&S and PCSM Plans to satisfy antidegradation implementation requirements of 25 Pa. Code §§ 93.4c, 102.4(b)(6) and 102.8(h).

## **XVI. RIPARIAN AREA REPLANTING**

- A. 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 or the Federal Emergency Management Agency (FEMA) mapped 100-year floodplain, whichever is greater landward from the top of both banks of non-special protection watersheds; 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.
- B. Persons that protect, convert or establish a new riparian forest buffer that meets the requirements of § 102.14(b) may qualify for benefits under § 102.14(e)(1) and (2) relating to the antidegradation presumption and trading or offsetting of credits.
- C. The permittee must protect, convert or establish a new riparian forest buffer that meets the requirements of 25 Pa. Code § 102.14 unless otherwise exempted or waived under § 102.14(a) or 102.14(d).

## **XVII. GEOLOGIC HAZARDS**

The permittee shall notify the Department or conservation district immediately by phone if a geologic formation or soil condition develops on the project site that has the potential to cause pollution, including coal seams, where earth disturbance activities have the potential to expose acid producing rock or infiltrate stormwater runoff into acid producing rock, radioactive or arsenic bearing formations, surface mines (existing, abandoned and/or reclaimed), deep mines (active, abandoned where the earth disturbance activities have the potential to encounter a mine void), mine spoil dump area, abandoned mine drainage, or abandoned mine drainage treatment systems.

Within 5 calendar days following the notification, the permittee shall submit a plan drawing showing the location of that geologic formation or soil condition, photographs, the method of repair, and how E&S and/or PCSM BMPs will be modified as a result, if applicable.

## **XVIII. DISCHARGES TO NON-SURFACE WATER**

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 water shall be maintained to prevent erosion from stormwater flows.

## **XIX. WATER SUPPLY NOTIFICATION**

- A. If the project results in a pollution event or other adverse impact to any public or private water supplies, the permittee shall immediately notify the Department and the potentially affected public or private water supplies of the pollution event.
- B. In the event that the permittee's work related to this authorization causes adverse impacts to a public or private water supply source, the permittee shall address the restoration or replacement of the impacted water supply and mitigate and/or remediate any pollution resulting from the project in accordance with applicable legal requirements.
- C. At least 72 hours in advance of beginning construction of a pipeline stream crossing, the permittee shall notify all identified users of private water supply wells within 150-ft of pipeline construction.
- D. If the Department determines that the project adversely affects a public or private water supply, the permittee shall restore or replace the affected water supply with an alternate source of water adequate in quantity or quality for the purposes served by the supply.

- E. At least 72 hours in advance of beginning construction of a pipeline stream crossing, the permittee shall notify all users of surface water intakes within one mile downstream of the crossing. These include but are not limited to, drinking water users, industrial, and commercial users that may be impacted by turbidity or water quality changes.
- F. The permittee shall notify such downstream water users immediately of any pollution event or incident at its site that may endanger downstream users. The permittee shall also immediately implement its approved contingency plan to prevent further adverse impacts and remediate all adverse impacts as a result of the pollution event or incident.
- G. If a public or private drinking water source not previously identified by the permittee is discovered by the permittee during construction, the permittee shall immediately notify the Department of the identified water source and shall notify that source of the permittee's construction activities.