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DOCKET NO. D-2016-007-1

DELAWARE RIVER BASIN COMMISSION

**Eastern Shore Natural Gas Company
2017 Expansion Project**

Natural Gas Pipeline

**Highland, Penn, New London and Franklin Townships, Chester County, Pennsylvania,
Cecil County, Maryland and New Castle County, Delaware**

PROCEEDINGS

This docket is issued in response to an application submitted to the Delaware River Basin Commission (DRBC or Commission) by Eastern Shore Natural Gas Company (“Eastern Shore” or “docket holder”) on September 21, 2016 (“the Application”), for the approval of a natural gas pipeline project referred to as the “2017 Expansion Project (“Project”).” The Jennersville Loop portion of the Project crosses three designated tributaries of the White Clay Creek National Wild and Scenic River, and the Summit Loop portion of the Project crosses the C&D Canal Wildlife Management Area, which are recreation project areas designated in the Commission’s Comprehensive Plan. The Project therefore meets a regulatory threshold that subjects the Project to Commission review. On May 17, 2016 the Federal Energy Regulatory Commission (“FERC”) approved Eastern Shore’s request to commence the pre-filing review process under Docket No. PF16-7-000. Eastern Shore submitted an Abbreviated Application for Certificate of Public Convenience and Necessity to the Federal Energy Regulatory Commission (“FERC”) on December 30, 2016 under Docket No. CP17-28-000. The project is currently under review by FERC and issuance of a Certificate of Public Convenience and Necessity is required for the project. Additional regulatory approvals from the United States Army Corps of Engineers (“USACE”), the Pennsylvania Department of Environmental Protection (“PADEP”), the Maryland Department of the Environment (“MDE”), the Delaware Department of Natural Resources and Environmental Control (“DNREC”), the Chester County Conservation District and the Cecil County Conservation District are required for the Project as described in the Findings section of this docket.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Chester County Planning Commission, the New Castle County Planning Department and the Cecil County Department of Planning and Zoning have been notified of pending action on this docket. A public hearing on this project was held by the DRBC on February 15, 2017.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to approve the construction of the Delaware River Basin (“Basin”) portion of the docket holder’s 2017 Expansion Project, including: part or all of four 10-, 16- and 24-inch diameter natural gas pipeline loops and one associated above ground facility (mainline valve) located in Chester County Pennsylvania, New Castle County, Delaware and the unregulated portion of the Delaware River Basin in Cecil County Maryland; the discharge of up to 1.527 million gallons of water used for hydrostatic testing; and a special use permit in accordance with Section 6.3.4 of the Commission’s Flood Plain Regulations. The 2017 Expansion Project will be fully integrated with Eastern Shore’s existing natural gas pipeline system and will provide 61,162 dekatherms per day of additional firm natural gas transportation capacity to meet market demand in the Delmarva Peninsula.

2. Location. The 2017 Expansion Project is composed of (1) approximately 22.7 miles of pipeline looping in Pennsylvania, Maryland and Delaware; (2) upgrades to an existing metering facility in Lancaster County, Pennsylvania; (3) installation of an additional 3,750 horsepower compressor unit at the existing Daleville Compressor Station in Chester County, Pennsylvania; and (4) approximately 16.9 miles of new mainline extension and the addition of two pressure control stations in Sussex County, Delaware. The portions of the Project located within the Delaware River Basin consist of four (4) segments of natural gas pipeline looping, referred to as the Parkesburg Loop (0.15 miles within the basin), Jennersville Loop (4.41 miles within the basin), Fair Hill Loop (2.75 miles within the basin), and the Summit Loop (all 0.5 miles within the basin). An aboveground Mainline Valve (“MLV”) is proposed as part of the Jennersville Loop pipeline. The pipeline looping segments are located along the existing north south tending Eastern Shore Natural Gas pipeline system that delivers natural gas from several interconnections in Pennsylvania and Delaware to customers in the Delmarva Peninsula. The location of the pipeline segments within the Basin are as follows:

Parkesburg Loop - The 16-inch diameter Parkesburg Loop in Highland Township, Chester County, Pennsylvania will commence at Eastern Shore’s existing meter and regulator station along Cemetery Road and extend for approximately 4.5 miles southeast to tie-in to the existing Eastern Shore pipeline east of Limestone Road (State Route 10). Approximately 0.15 miles of the extreme southeastern portion of this pipeline loop (Mile Post [MP 4.34 – MP 4.49]) is located within the Basin. The remainder of the pipeline is located out of the Basin in the drainage area of East Branch Big Elk Creek, which is part of the Chesapeake Bay Watershed. Also included in the Basin is an approximate 1.5 acre staging area located east of the existing meter station at the northern end of the loop. The section of the pipeline in the Basin parallels the existing Eastern Shore pipeline entirely within existing Eastern Shore right-of-way (“ROW”).

Jennersville Loop - The 24-inch diameter Jennersville Loop in Chester County, Pennsylvania will commence at Eastern Shore’s Daleville Compressor Station along Street Road (State Route 926) and extend for approximately 7.3 miles southeast to tie-in to the existing Eastern Shore pipeline near the intersection of Hess Mill Road and Wingate Drive in Franklin Township, Chester County, Pennsylvania. The Daleville Compressor Station and the northwestern-most 2.9 miles of pipeline is located out of the Basin in the drainage area of East Branch Big Elk Creek, which is part of the

Chesapeake Bay Watershed. The remainder of the pipeline (approximately 4.4 miles), generally east of North Jennersville Road (Route 796) is located in the Basin within Penn, New London, and Franklin Townships, Chester County, Pennsylvania. Approximately 3.07 miles of the 4.41 miles of pipeline loop in the basin is located within existing Eastern Shore ROW and Sunnyside Road ROW. An approximate 1.3-mile section was rerouted in the area of the CSX Transportation railroad and Sunnyside Road to avoid residential properties along the existing Eastern Shore pipeline ROW.

Fair Hill Loop - The 24-inch diameter Fair Hill Loop in Franklin Township Chester County, Pennsylvania and Cecil County, Maryland will commence at a valve cluster south of Walker Road and extend for approximately 3.7 miles southeast to tie-in to an existing Eastern Shore pipeline just south of Telegraph Road (Maryland Route 273). The northwestern part of the loop (MP 0.0 to 0.9) is located out of the Basin in the drainage area of Big Elk Creek, which is part of the Chesapeake Bay Watershed. The remainder of the pipeline is located in the drainage area of the Delaware River Basin, including approximately 2.0 miles in Cecil County Maryland. With the exception of a 0.05-mile section which is located in Appleton Road ROW, the entire pipeline is located within existing Eastern Shore ROW.

Summit Loop - The 10-inch diameter Summit Loop in New Castle County, Delaware will commence within Eastern Shore’s existing ROW at the southern base of the Eastern Shore aerial bridge spanning the Chesapeake & Delaware Canal, and extend for approximately 0.5 mile southwest to tie-in at the existing Eastern Shore pipeline along Old Summit Bridge Road. Approximately 0.25 miles of the southern portion of the loop is located within the ROW of Old Summit Bridge Road.

The above ground facility consists of a new MLV located on the Jennersville Loop (MP 4.15) in Penn Township, Chester County, PA.

The Project pipelines and aboveground facilities are located in the Delaware River Basin drainage areas as follows:

DRB WATERSHEDS CROSSED BY THE PROJECT	
PROJECT FEATURE	HUC 12 WATERSHED
Parkesburg Loop (M.P. 4.34 – 4.49)	Doe Run
Jennersville Loop (MP 2.92-7.33)	West Branch White Clay Creek
Fair Hill Loop (MP 0.92-3.67) *	Upper Christina River
Summit Loop (MP 0.00-0.53)	C&D Canal East - Delaware River
Jennersville Loop MLV	West Branch White Clay Creek

*MP 1.66-3.67 located in Cecil County, Maryland (unregulated portion of Basin)
A listing of the individual stream crossings within the Delaware River Basin is included in a table in the Findings section of this docket.

3. **Area Served.** Eastern Shore receives natural gas at four upstream interstate pipeline interconnections in Pennsylvania and Delaware for transportation to local distribution companies, industrial customers and electric power generation customers in the Delmarva Peninsula. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. **Physical features.**

a. **Design criteria.** Eastern Shore has designed and will construct all facilities to meet or exceed the safety- related requirements imposed by the applicable provisions of the Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. §§ 60101-60503, and the U.S. Department of Transportation’s pipeline construction and safety standards set forth in Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, 49 C.F.R. Part 192, and all local codes and permits applicable to natural gas pipeline facilities. Eastern Shore will adhere to FERC’s 2013 Upland Erosion Control, Revegetation and Maintenance Plan (“Plan”) and 2013 Wetland and Waterbody Construction and Mitigation Procedures (“Procedures”). Eastern Shore will also comply with all applicable requirements imposed by Pennsylvania, Maryland and Delaware state agencies.

The proposed facilities will be operated and maintained in accordance with the applicable safety standards established by the USDOT (49 C.F.R. Part 192). The standards imposed are in accordance with the Natural Gas Pipeline Safety Act of 1968 as amended. Maintenance activities will include regularly-scheduled gas leak surveys and measures necessary to repair any potential leaks. The latter may include repair or replacement of pipe segments. All fence posts, signs, marker posts, and decals will be painted or replaced to ensure that pipeline locations are visible. All valves will be periodically inspected and maintained.

The pipelines will be patrolled on a routine basis. This will provide information on possible leaks, construction activities, erosion, exposed pipe, population density, possible encroachment, and other potential problems that may affect the safety and operation of the pipeline. Other maintenance functions will include as applicable (1) periodic seasonal mowing of the permanent easement in accordance with the vegetative maintenance restrictions outlined in the FERC Plan and Procedures, (2) terrace repair and backfill replacement, and (3) periodic inspection of water crossings. During permanent easement maintenance, Eastern Shore states that it will not use herbicides or pesticides within 100 feet of a wetland or waterbody unless approved by appropriate federal, state, and local agencies.

Cathodic protection facilities installed along the pipeline will be regularly monitored to maintain required pipe-to-soil potential. This will be achieved in accordance with the specifications set forth by Eastern Shore that meet or exceed USDOT regulations.

b. **Facilities.** The proposed facilities will be constructed using conventional construction techniques typically associated with mainline pipeline installation. The typical ROW for the loops is 100 feet wide, consisting of a 35-foot permanent easement and a 65-foot temporary

workspace. In general, the pipeline trench will be deep enough to provide for a minimum of 3 feet of cover over the pipeline as required by 49 C.F.R. Part 192 of the U.S. Department of Transportation (USDOT) regulations. Approximately 80 percent of the pipeline loop (6.22 miles) in the Delaware River Basin will be located within existing Eastern Shore pipeline ROW and public roadway ROWs.

The four natural gas pipeline loops within the Delaware River Basin will be constructed as described in the following table:

Loop	Length of Pipe in DRB	Pipe Diameter	Pipe Wall Thickness
Parkesburg Loop	0.15 miles	16-inch	0.312-inch
Jennersville Loop	4.41 miles	24-inch	0.375-inch
Fair Hill Loop	2.75 miles*	24-inch	0.375-inch
Summit Loop	0.5 miles	10-inch	0.307-inch

* Length of the Fair Hill Loop includes 0.74 miles in regulated portion of basin (Franklin Township, Chester County, Pennsylvania) and 2.01 miles in Cecil County, Maryland.

One (1) above ground MLV assembly is proposed to be installed as part of the proposed Jennersville Loop portion of the project.

c. Water Withdrawals and Discharges. This Project will require water for horizontal directional drilling (“HDD”) and hydrostatic testing of the pipelines. The docket holder estimates approximately 1.527 million gallons and 0.550 million gallons of water will be needed for the hydrostatic testing and HDD operations in the Delaware River Basin, respectively. Water for these operations will be purchased from Chester Water Authority (“CWA”) or other local municipal sources and brought to the construction site via a tanker truck. Docket No. D-69-60 approved on May 29, 1969, amended by Docket No. D-84-55 via Resolution 89-18 on August 2, 1989 approves the import of up to 60 mgd from the Susquehanna River Basin by the CWA for use in New Castle County, Delaware and Chester and Delaware Counties, Pennsylvania. No additional chemicals will be added to the hydrostatic test water. The docket holder is not approved to withdraw water from surface sources within the Delaware River Basin for this Project.

The water used for hydrostatic testing of the pipelines will be discharged to vegetated upland areas in the Basin at the southern end of Parkesburg and Jennersville Loops. The hydrostatic test water discharge locations for the Fair Hill and Summit Loops have not been identified at this time. An energy dissipater will be used at each discharge location and the rate of discharge is not anticipated to exceed 100,000 gallons per day. Authorizations from state agencies are required. The docket holder anticipates submitting applications to PADEP for Authorization to Discharge Under the NPDES General Permit for Discharges of Hydrostatic Testing of Tanks and pipelines (PAG-10) for the Parkesburg and Jennersville Loops and MDE for approval of a General Permit for Discharges from Tanks, Pipes, and Other Liquid Containment Structures at Facilities other than Oil Terminals for the Fair Hill Loop in January 2017.

At least 15 days prior to any discharge of hydrostatic test water, the docket holder must submit to the DRBC Executive Director (See Condition C.I.d) copies of state discharge approvals and the location of all hydrostatic test water discharges.

d. Cost. The docket holder estimates that the construction cost of the Delaware River Basin portion of the Project is \$49,240,991.

B. FINDINGS

The purpose of this docket is to approve the construction of the Delaware River Basin portion of the docket holder's 2017 Expansion Project, including: part or all of four 10-, 16- and 24-inch diameter natural gas pipeline loops and one associated above ground facility (mainline valve) located in Chester County Pennsylvania, New Castle County, Delaware and the unregulated portion of the Delaware River Basin in Cecil County Maryland; the discharge of up to 1.527 million gallons of water used for hydrostatic testing; and a special use permit in accordance with Section 6.3.4 of the Commission's Flood Plain Regulations. The 2017 Expansion Project will be fully integrated with Eastern Shore's existing natural gas pipeline system and will provide 61,162 dekatherms per day of additional firm natural gas transportation capacity to meet market demand in the Delmarva Peninsula.

Eastern Shore will adhere to the FERC's 2013 Upland Erosion Control, Revegetation and Maintenance Plan and 2013 Wetland and Waterbody Construction and Mitigation Procedures, Eastern Shore's Erosion & Sedimentation Control (ESC) Plan, Eastern Shore's standard construction practices and policies, and any additional Project-specific requirements that may be imposed by federal, state, and local agencies for the Project.

Project Land and Wetland Disturbance

Erosion and Sediment Control Plan approvals from Chester County Conservation District, Cecil County Conservation District and DNREC are required for the Project. The docket holder anticipates submitting permit applications in January and February 2017.

Construction of the DRB portion of the pipeline loops will disturb a total of approximately 101.9 acres of land. This total includes the permanent pipeline ROW, temporary pipeline construction workspace, additional temporary workspace, staging areas and all other areas located within the limits of construction for the Delaware River Basin portions of the pipeline loops. Following construction of the pipelines, a total of approximately 4.1 acres of the 102.7 acres of land disturbed during construction will be retained as new permanent ROW along the pipeline loops. The remaining 98.6 acres of temporary disturbed areas will be allowed to revert to pre-construction conditions.

Eastern Shore will use to the extent possible, existing public and private road crossings along the Project as the primary means of accessing the ROW. In addition to the existing access available by the use of public roads, Eastern Shore will construct six (6) temporary access roads in the basin for use during the pipeline construction. Eastern Shore will also construct one

permanent access road at the Jennersville MLV, which will be used for future access and maintenance of the facility.

The Rules of Practice and Procedure (“RPP”) require Commission review for projects that “involve a significant disturbance of ground cover affecting water resources”. In determining whether a “significant disturbance” would occur, the DRBC Project Review staff is guided by two other land disturbance thresholds established by RPP section 2.3.5 A: those that, respectively, exclude from review projects involving “[a] change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than three square miles” (RPP § 2.3.5 A.6); and projects that involve “[d]raining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres” (RPP § 2.3.5 A.15). In staff’s view, these thresholds indicate the general magnitude of disturbance that the Commission decided warrants basin-wide review. The Project’s total limit of disturbance area in the Delaware River Basin is approximately 102.7 acres (0.16 square miles), which does not exceed the 3 square mile threshold. Additionally, the alteration of wetlands associated with the Project does not exceed 25 acres as discussed in the following paragraphs.

Nine wetlands totaling an area of approximately 0.22 acres will be disturbed during the construction of the Project in the Basin. The wetland includes approximately 0.16 acres of palustrine emergent wetland (PEM) and 0.02 acres of palustrine forested wetlands (PFO) at the Jennersville Loop and 0.03 acres of PEM and 0.01 acres of PFO at the Fair Hill Loop. No wetlands will be disturbed during construction of the Delaware River Basin portion of the Parkesburg Loop or the Summit Loop. After construction, wetlands will be restored to the original contours and stabilized with an appropriate wetland seed mixture. A 10-foot-wide strip centered on the pipelines will be maintained in an herbaceous state over the course of project operation. Approximately 0.04 acres of wetlands including less than 0.0005 acres of PFO wetlands are located within the 10-foot wide maintenance corridor. The PFO wetlands will be permanently converted to PEM or palustrine scrub-shrub (PSS) wetlands.

Eastern Shore will implement wetland crossing procedures and wetland protection measures outlined in its ESC Plans. Erosion and sedimentation controls will be installed and maintained in accordance with the FERC’s erosion and sedimentation control measures, to minimize impacts on wetlands. Construction methods will minimize the extent and time that construction equipment operates in wetland areas. Sediment barriers will be used upslope of the wetland boundary. When wetland soils are inundated or saturated to the surface, the pipeline trench will be excavated across the wetland by equipment supported on wooden swamp mats to minimize the disturbance to wetland soils. In wetlands that have firm substrates, and are unsaturated, the top 12 inches of wetland soil over the trenchline will be segregated. ATWS will be needed adjacent to specific wetlands to facilitate the pipeline crossing. The staging areas are in addition to the typical construction ROW and may be used for the assembly and fabrication of the pipe section that will cross the wetland area. These work areas will be located at least 50 feet away from the wetland edge, topographic and other site specific conditions permitting. If topographic conditions do not permit a 50-foot setback, these areas will be located at least 10 feet away from the wetland. The work area will be limited to the minimum size necessary to safely construct the

wetland crossing. Restricting the work area in this manner will minimize wetland impacts associated with pipeline construction.

Waterbody Crossings

PADEP Chapter 105 Water Obstruction and Encroachment Permits, MDE Nontidal Wetlands Permits and USACE wetland and waterway crossings (Section 404) Permits are required for the Project. The docket holder anticipates submitting the permit applications to the state agencies in January 2017.

The Jennersville Loop pipeline will cross a total of 9 waterbodies including the West Branch White Clay Creek and UNTs of West Branch White Clay Creek. All of the water body crossings will be completed using an open cut dry crossing method. The Fair Hill Loop pipeline in Cecil County Maryland will cross a total of 7 intermittent waterbodies (unnamed tributaries to Christina River). Six (6) of the water body crossings will be completed using open cut dry crossing methods and one waterbody will be crossed using HDD. No waterbodies in the Basin will be crossed by the Parkesburg or Summit Loop pipelines.

The dry crossing method involves the installation of a flume pipe(s) and/or dam and pump prior to trenching to divert the stream flow over the construction area and allow trenching of the stream crossing in drier conditions isolated from the stream flow. Eastern shore will maintain downstream flow during construction activities. Intake hoses will be screened to prevent the entrapment of fish and other aquatic life and backup pumps will be maintained on site. Spoil removed during trenching will be stored away from the water's edge and protected by sediment containment structures. Surface streambed material will be stored separately from subsurface materials and returned to its original location in the streambed. Eastern Shore will generally complete in-stream work in minor waterbodies (less than 10 feet wide) within 24 hours, and in intermediate waterbodies (10 to 30 feet wide) within 48 hours.

The HDD method involves a specialized machine to drill under the waterbody and pull back a pipe string as the drill pipe is withdrawn. HDD method involves no work within or direct impact to the streambed or stream banks. Drilling fluid consists mainly of a bentonite clay-water mixture. Eastern Shore does not propose the use of any additives for the drilling mud. Drilling mud is typically run through a reclaimer, separating the HDD fluids from the cuttings. The HDD fluids are then re-used and the separated cuttings are transported to, and disposed of, at a state approved and permitted solid waste landfill. No discharges of water or drilling fluid from HDD operations will occur. Eastern Shore has prepared a HDD Inadvertent Surface Release Contingency Plan. Any proposed change from an HDD to an alternative crossing method requires the written approval of the Executive Director prior to initiating construction of the alternative (see Condition C.I.f.).

Eastern Shore will cross waterbodies in accordance with FERC's Plan and Procedures and state and federal permit requirements. Temporary and permanent erosion controls will be installed and maintained in accordance with Eastern Shore's approved ESC Plans. All stream banks and beds will be restored to original grade and the original stream bed material will be segregated and restored in accordance with the Project's State-approved ESC Plans.

Relationship to Reservoirs, Proposed Reservoirs or Recreation Project Areas

The Jennersville Loop crosses two designated tributaries of the White Clay Creek National Wild and Scenic River (total of three crossings) in New London Township, Chester County, Pennsylvania and the Summit Loop crosses the Chesapeake & Delaware Canal Wildlife area in New Castle County, Delaware. Both are recreation project areas designated in the Commission's Comprehensive Plan. Accordingly, Commission review of the Project is required. RPP § 2.3.5A.13. The National Park Service ("NPS") Northeast Region administers the White Clay Creek National Wild and Scenic River. The Chesapeake & Delaware Canal Wildlife area is owned by the USACE.

White Clay Creek Wild and Scenic Area

The Jennersville Loop pipeline crosses two designated tributaries including the West Branch White Clay Creek (crossed at MP 3.79 and MP 6.13) and an unnamed tributary of West Branch White Clay Creek (crossed at MP 6.70) in New London Township, Chester County, Pennsylvania. Eastern Shore will construct these three crossings using open cut dry crossing methods. At the crossing locations, the waterbodies are between 3 and 15 feet wide.

Because the crossings will require USACE Section 404 permits, a review by the NPS under Section 7 of the Wild and Scenic Rivers Act is required. Under Section 7, NPS will determine if these crossings will have a "direct and adverse" impact on fee flow and water quality for the tributaries. The Project is currently under review by the USACE.

Chesapeake & Delaware Canal Wildlife Area

The C&D Canal Wildlife Area consists of nearly 5,000 acres of protected lands lining the north and south shores of the Delaware portion of the C&D Canal. The 14 - mile long canal owned and operated by the U.S. Army Corps of Engineers provides a direct shipping route between the Chesapeake Bay and the Delaware River. The Wildlife Area lining its shores is managed by the Delaware Division of Fish & Wildlife for hunting, fishing, and a recreational trail. The Summit Loop crosses the Chesapeake & Delaware Canal Wildlife Area from milepost 0.0 to approximately milepost 0.20 adjacent to an existing dirt trail and Old Summit Bridge Road. The docket holder has initiated consultation with the DNREC Division of Fish and Wildlife. Authorization will also be required from the U.S. Army Corps of Engineers to cross the Chesapeake & Delaware Canal Wildlife Area.

Floodplain Regulations

Section 6.3.4 of the Commission's Floodplain Regulations allows certain uses, including pipelines constructed within the floodway when authorized by special permit. As previously discussed, the Project pipelines will directly cross a total of 9 waterbodies and their associated floodways in the regulated portion of the Basin (Jennersville Loop) and a total of 7 waterbodies and floodways along the Fair Hill Loop within the Basin in Cecil County Maryland. One water body and its floodway will be crossed using HDD. The 15 other stream and floodway crossings will be completed using open cut dry crossing methods.

The pipeline and/or construction work area crosses a total of five FEMA-mapped 100-year floodplains of the West Branch White Clay Creek on the Jennersville Loop and one (1) FEMA mapped floodplain of an unnamed tributary to the Christina River on the Fair Hill Loop. Floodways were not delineated by FEMA at these locations or any other pipeline stream crossing. The permanent above ground facility (Jennersville MLV) is not located in a FEMA mapped floodplain.

The construction of the Jennersville Loop will disturb a total of approximately 2.5 acres of floodway during the construction of the pipeline facilities. This includes the area of the floodways surrounding the 9 stream crossings in the construction workspace as well as several additional areas where the floodways of the West Branch White Clay Creek and one unnamed tributary to the West Branch White Clay Creek extend into the construction workspace, but the waterbody is not directly crossed by the pipeline facilities. The applicant assumed the floodway to extend 50 feet from each bank of the waterbodies in accordance with PADEP definitions.

The Project will not permanently alter, modify, or obstruct any watercourses. Temporary equipment, such as dams and pumps, flumes and equipment bridges will be located in the floodway during construction of the pipeline. However, the construction within floodways will be expedited and the equipment will be removed following construction activities. Eastern Shore will install the pipelines at dry crossing areas at a minimum depth of 3 feet below each stream channel. No permanent aboveground facilities are proposed on the ground surface within a floodway. If necessary, the pipeline sections beneath the stream channels will be weighted to negate any potential buoyancy effects. Following the construction of the pipelines, the stream channel bed and banks will be restored to preconstruction contours, vegetation and hydrology. No spoil or fill material will remain in the floodway following construction of the pipeline. This docket constitutes a special use permit for the pipeline in accordance with Section 6.3.4 of the Commission’s Flood Plain Regulations for a pipeline within floodway and flood fringe areas. A list of the streams and floodways crossed by the Project are presented in the following table.

DRB STREAMS AND FLOODWAYS CROSSED BY THE 2017 EXPANSION PROJECT				
JENNERSVILLE LOOP (Penn and New London Townships, Chester County)				
Waterbody ID	Waterbody Name	Milepost	Stream Width (feet)	Flow Type
WW	UNT West Branch White Clay Creek	3.30	4	Intermittent
X	West Branch White Clay Creek	3.79	7	Perennial
K	UNT West Branch White Clay Creek	5.17	11	Intermittent

L	UNT West Branch White Clay Creek	5.34	5	Ephemeral
M	West Branch White Clay Creek	6.13	15	Perennial
O	UNT West Branch White Clay Creek	6.41	3	Intermittent
P	UNT West Branch White Clay Creek	6.49	5	Ephemeral
Q	UNT West Branch White Clay Creek	6.70	5	Perennial
R	UNT West Branch White Clay Creek	6.84	8	Intermittent
FAIR HILL LOOP (Cecil County, Maryland)				
S	UNT Christina River	1.95	9	Intermittent
U	UNT Christina River	2.16	6	Intermittent
W	UNT Christina River	2.38	6	Intermittent
X	UNT Christina River	2.47	17	Intermittent
Y	UNT Christina River	2.65	5	Intermittent
AA	UNT Christina River	3.05	2	Intermittent
E	UNT Christina River	3.50	5*	Intermittent

*Denotes HDD Crossing

UNT = unnamed tributary

Federal, State, and Local Permits/Approvals

The following table lists approvals related to water resources in the Delaware River Basin for the Eastern Shore Project.

AGENCY	PERMIT	PERMIT NO.	STATUS
FERC	Certificate of Public Convenience and Necessity	CP17-28-000 PF16-7-000	Application filed on December 30, 2017
USACE	Section 404 and 408 Permits	Pending	Section 408 Permit application submitted on January 4, 2017
PADEP	Chapter 105 Water Obstruction and Encroachment Permit	Pending	Anticipate submitting permit application in January 2017
PADEP	Section 401 Water Quality Certification	Pending	Anticipate submitting permit application in January 2017
PADEP	PAG-10 Hydrostatic Discharge approval	Pending	Anticipate submitting permit application in January 2017
Chester County Conservation District	Erosion and Sediment Control Plan approval and Stormwater Permit	Pending	Anticipate submitting permit application in January 2017
DNREC	Coastal Zone Management Act	Pending	Permit notification submitted May 18, 2016
DNREC	Erosion and Sediment Control Plan Review and Approval for Pipeline Construction	Pending	Anticipate submitting ESC Plans in February 2017
DNREC	NPDES NOI General Stormwater Permit	Pending	Anticipate submitting permit application in January 2017
MDE	Nontidal Wetlands Joint Permit	Pending	Anticipate submitting permit application in January 2017
MDE	General Permit for Stormwater Associated with Construction Activity Notice of Intent (NOI)	Pending	Anticipate submitting NOI in January 2017
MDE	General Discharge Permit - Hydrostatic Testing Discharge	Pending	Anticipate submitting permit application in January 2017

Cecil County Conservation District	Erosion and Sediment Control Plan Review and Approval for Pipeline Construction	Pending	Anticipate submitting permit application in January 2017
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Copies of the approved State, County and Federal Permits listed above are required to be submitted to the Commission prior to commencing construction of the Project (see Condition C.I.b.).

Docket Approval Duration

Commission approval of the project, including the special permit within floodway areas, will remain in effect for the life of the project. Therefore, the docket has no expiration date.

Other

The Project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

The Project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

C. DECISION

I. Effective on the approval date for Docket No. D-2016-007-1, the project and appurtenant facilities as described in Section A. (Physical features) are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the FERC, USACE, NPS, PADEP, DNREC, MDE, Chester County Conservation District and Cecil County Conservation District and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

b. Sound practices of excavation, backfill and reseeding shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction. Prior to commencing any site construction, the docket holder shall submit to DRBC copies of approved permits issued by Federal, State and County agencies.

c. The docket holder shall submit final construction plans to the Commission and obtain the written approval by the Executive Director prior to any site clearance or construction.

d. The docket holder shall submit copies of state-issued discharge approvals and the location of all hydrostatic test water discharges to the DRBC Executive Director at least 15 days prior to the discharge.

e. With the exception of bentonite and water, no other additives shall be used in the HDD process. Used drilling mud and solids from the drilling process shall be disposed of at a state approved disposal facility.

f. Any proposed change from an HDD to an alternative crossing method requires the written approval of the Executive Director prior to initiating construction of the alternative.

g. Within 30 days of completion of construction of the approved project, the docket holder is to submit to the attention of the Project Review Section of DRBC a Construction Completion Statement (“Statement”) signed by the docket holder’s professional engineer for the project. The Statement must (a) either confirm that construction has been completed in a manner consistent with any and all DRBC-approved plans or explain how the as-built project deviates from such plans; (b) report the project’s final construction cost as such cost is defined by the project review fee schedule in effect at the time application was made; and (c) indicate the date on which the project was (or is to be) placed in operation.

h. This approval of the construction of facilities described in this docket shall expire three years from date below unless prior thereto the docket holder has commenced operation of the subject project or has provided the Executive Director with written notification that is has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval.

i. The docket holder shall report in writing to the Commission Project Review Section any violation of the docket conditions within 48-hours of the occurrence or upon the docket holder becoming aware of the violation. The docket holder shall also provide a written explanation of the causes of the violation within 30 days of the violation and shall set forth the action(s) the docket holder has taken to correct the violation and protect against a future violation.

j. This docket constitutes a special use permit under Section 6.3.4 of the Commission’s Flood Plain Regulations for a pipeline within floodway and flood fringe areas.

k. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

l. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director’s judgment such modification or suspension is required to protect the water resources of the Basin.

m. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

n. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the *Rules of Practice and Procedure*. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

BY THE COMMISSION

APPROVAL DATE:

DRAFT