

DOCKET NO. D-2016-008-1

DELAWARE RIVER BASIN COMMISSION

**DTE Midstream Appalachia, LLC
Birdsboro Pipeline Project**

**Natural Gas Pipeline
Borough of Birdsboro and Union, Amity, Oley and Rockland Townships,
Berks County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an application submitted to the Delaware River Basin Commission (“DRBC” or “Commission”) by Dawood Engineering, Inc. on behalf of DTE Midstream Appalachia, LLC (“DTE” or “docket holder”) on March 10, 2017 (“the Application”), for the approval of a natural gas pipeline project referred to as the “Birdsboro Pipeline Project (“Project”).” DRBC Docket No. D-2016-004-1 issued to Birdsboro Power, LLC required the Commission’s approval of the DTE Project as the pipeline is a required component of the Birdsboro Power energy generating facility. On October 28, 2016, the Federal Energy Regulatory Commission (“FERC”) approved DTE’s request to commence the pre-filing review process under Docket No. PF17-1-000. DTE submitted an Abbreviated Application for Certificate of Public Convenience and Necessity to the FERC on May 1, 2017 under Docket No. CP17-409-000. 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”) and the Berks 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 Berks County Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on August 16, 2017.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to approve the construction of the docket holder’s Birdsboro Pipeline Project, including: approximately 13.2 miles of new 12-inch diameter natural gas pipeline; installation of a new pig receiver at the Birdsboro Power Facility; installation of one new meter site adjacent to Texas Eastern Transmission Company (TETCO) right-of-way (ROW); one new pig launcher at the TETCO interconnect; two new taps on the TETCO pipeline; and four mainline valves (MLV) along the pipeline route in the Borough of Birdsboro and Union, Amity, Oley and Rockland Townships, Berks County, Pennsylvania; and a special use permit in accordance with Section 6.3.4 of the Commission’s Flood Plain Regulations. The pipeline will

serve as a fuel provider for the proposed Birdsboro Power Facility designed to provide approximately 79,000 dekatherms per day of year-round transportation service from a receipt point on the Texas Eastern Transmission Company (TETCO) pipeline in Rockland Township to the Birdsboro Power facility in the Borough of Birdsboro.

2. Location. The Project facilities will be constructed in the Borough of Birdsboro and Union, Amity, Oley and Rockland Townships, Berks County, Pennsylvania. The proposed 12-inch diameter natural gas pipeline will run from the proposed Birdsboro Power Facility in the Borough of Birdsboro in a generally north direction through the Townships of Union, Amity, and Oley and will tie into the existing TETCO natural gas transmission pipeline in Rockland Township.

The above ground facilities consist of a new pig receiver at the proposed Birdsboro Power facility in the Borough of Birdsboro, four (4) new MLV sites located along the pipeline in Amity and Oley Townships and a new meter site, pig launcher and taps at the TETCO interconnect in Rockland Township. The project will also utilize seven sites for staging areas and contractor yards in Robeson, Amity and Oley Townships, Berks County during construction.

The Project pipeline and aboveground facilities are located in the Schuylkill River Watershed within the drainage areas as follows:

DRB WATERSHEDS CROSSED BY THE PROJECT	
PROJECT FEATURE	HUC 12 WATERSHED
Natural Gas Pipeline (M.P. 0.0 – 13.2)	Sixpenny Creek-Schuylkill River
	Monocacy Creek
	Lower Manatawny Creek
	Upper Manatawny Creek
Pig Receiver (M.P. 0.0)	Sixpenny Creek-Schuylkill River
MLV-1 (M.P. 0.8)	Sixpenny Creek-Schuylkill River
MLV-2 (M.P. 6.2)	Monocacy Creek
MLV-3 (M.P. 9.7)	Lower Manatawny Creek
MLV-4 (M.P. 10.9)	Lower Manatawny Creek
Meter Site, Pig Launcher and TETCO interconnect taps (M.P. 13.2)	Upper Manatawny Creek

3. Area Served. The Project will provide natural gas to fuel the proposed Birdsboro Power facility, situated in the Borough of Birdsboro, Berks County, Pennsylvania. 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.** DTE has designed and will construct, operate and maintain the Project facilities in accordance with the United States 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. DTE will implement FERC's 2013 Upland Erosion Control, Revegetation and Maintenance Plan and 2013 Wetland and Waterbody Construction and Mitigation Procedures, except in areas where the docket holder obtains a waiver from FERC from specific conditions such as temporary workspace encroachments on wetlands or waterbodies where these are unavoidable.

DTE will operate and maintain the proposed facilities in accordance with its Operations and Maintenance Manual, which incorporates the applicable safety standards established by the USDOT (49 CFR 192) and American Society of Mechanical Engineers B31.8. Periodic aerial inspections and ground patrols will be conducted to visually inspect the route from above, or on the ground, for activities such as vegetative encroachment, evidence of unauthorized activity, damaged or exposed pipeline facilities, areas of environmental concern (e.g., subsidence, erosion), and other concerns that could affect public safety and operation of the Project. Vegetation along the permanent ROW would be maintained to prevent woody growth from encroaching onto the permanent easement (e.g., brush cutting, tree trimming) according to the FERC’s Plan and Procedures. Within fenced and graveled aboveground facility locations, where mowing and hand-cutting is impractical or undesirable, non-restricted use of herbicides may be used provided application of the herbicide is at least 100 feet from a wetland. These activities would be controlled by the above-stated plans, applicable governmental laws and regulations, permit conditions/authorizations, and landowner agreements.

Final and appropriate design of the cathodic protection system is contingent upon the successful completion of close interval surveys. Those surveys will not be completed until the pipeline is installed and neutralized to the ground. The amount of time required to complete those surveys and incorporate that data into the subsequent design precludes DTE’s ability to install the cathodic protection system prior to restoration activities associated with pipeline construction. DTE will evaluate the placement of cathodic protection facilities within the permanent ROW; however, final siting and design is contingent upon the aforementioned surveys. Aboveground features related to the cathodic protection system will be limited to the installation of a rectifier pole which will be located directly adjacent to the groundbed.

The regulatory/construction process and sequence for the cathodic protection system will be consistent with those required for similar small ancillary facility projects. If areas of proposed disturbance are identified outside of the previous survey corridor, an environmental walkover will be conducted to assess potential impacts and identify necessary permitting/regulatory requirements. If permitting is determined to be required, that process will be successfully completed prior to mobilizing equipment to the site. Upon successful installation of the cathodic system, the areas disturbed during construction will be restored.

The proposed pipeline facilities will be constructed using conventional construction

techniques typically associated with mainline pipeline installation. During construction, a 75-foot wide temporary construction ROW will be utilized, consisting of a 50-foot wide permanent easement and 25-foot temporary workspace (TWS). Twenty-five feet of additional temporary workspace (ATWS) will be utilized in certain areas such as agricultural lands, road and railroad crossings, waterbody and wetland crossings, steep slopes, staging and pull-back areas for horizontal directional drills (HDDs), pipe and contractor storage yards and contractor mobilization/demobilization areas, in addition to the 75-foot wide temporary construction ROW. In areas requiring additional workspace or specialized construction techniques, the ATWS width could be expanded to greater than 25 feet. The construction ROW will be reduced to 50 feet at streams and wetlands. Additionally, non-typical permanent ROW (between 25 and 40 feet) is planned in certain areas to reduce stream and wetland impacts.

b. Facilities. The facilities consist of approximately 13.2 miles of new 12-inch diameter natural gas pipeline, a pig receiver, four MLV, a meter station, a pig launcher and two taps at the TETCO interconnect.

The four MLV's will be installed alongside the pipeline at new aboveground locations typically measuring 20 feet by 35 feet within the permanent ROW. The new pig receiver at the Birdsboro Facility measures approximately 100 feet by 85 feet and the new meter site, pig launcher and two new taps at the TETCO interconnect measures approximately 150 feet by 155 feet. The surface of the above ground facilities will be covered by geotextile or gravel and are typically surrounded by fencing.

c. Water Withdrawals and Discharges. This project will require water for hydrostatic testing, horizontal directional drilling (HDD) and dust control. No self-supplied water withdrawals or discharges will occur as a result of this Project. All water required for these purposes will be purchased from the Reading Area Water Authority (RAWA) or other public water suppliers with approved dockets in the area. The docket holder estimates approximately 0.420 million gallons, 0.05 million gallons and 0.03 million gallons of water will be needed for the hydrostatic testing, HDD operations and dust control, respectively. The docket holder anticipates piping the water from existing water hydrants. The RAWA water supply is described in Docket No. D-2000-059 CP-2 approved on May 11, 2011. The docket approves the withdrawal of up to 1,085 million gallons per month from the Lake Ontelaunee Reservoir for water supply. Should the docket holder elect to purchase water from any other docket holder other than RAWA, the docket holder must submit the name, water supplier contact information and approved DRBC docket number for each water supplier at least 30 days prior to the purchase of the water (see Condition C.I.d.).

After testing, all water used for hydrostatic testing of the pipeline will be removed from the pipeline and trucked offsite for disposal at a DRBC docketed wastewater treatment facility. The DRBC docketed wastewater treatment facilities have not been identified at this time. Condition C.I.e. in the Decision section of this docket requires that the docket holder submit the name, ownership contact information and approved DRBC docket number for each WWTP proposed to be used for this purpose at least 30 days prior to the completion of the hydrostatic

testing. All HDD fluids and cuttings recovered from the bore pits will be hauled off-site to a state approved facility.

d. Cost. The docket holder estimates that the construction cost of the Project is \$43,100,000.

B. FINDINGS

Project Land Requirements

Erosion and Sediment Control Plan approvals from Berks County Conservation District are required for the Project. The status of the required permit applications is provided in Table 2 of this docket.

Construction of the Project will affect a total of approximately 155.1 acres of land. This total includes the permanent pipeline ROW, TWS, ATWS, access roads, staging areas and contractor yards within the limits of construction for the Project. Following construction of the Project, a total of approximately 77.4 acres of the 155.1 acres of land affected during construction will be retained as new permanent ROW along the pipeline, aboveground facilities and permanent access roads. The temporary workspace will be graded and allowed to revert or be restored to pre-construction conditions.

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 155.1 acres (0.24 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 section.

Wetland Disturbance

Erosion and Sediment Control Plan approvals from Berks County Conservation District and Chapter 105 Water Obstruction and Encroachment Permits (Joint Permit) from the PADEP and USACE are required for the Project. The status of the required permit applications is provided in Table 2 of this docket.

Approximately 2.39 acres of wetlands will be affected during the construction of the Project. The wetland acreage includes approximately 1.28 acres of palustrine emergent wetland (PEM), 0.08 acres of palustrine scrub-shrub (PSS) wetlands and 1.03 acres of palustrine forested wetlands (PFO). Following construction, disturbed wetland areas will be restored to preexisting

contours and allowed to naturally revegetate. During routine maintenance of the ROW, a 10-foot-corridor centered on the pipeline will be permanently maintained in an herbaceous state (PEM) with the potential for selective thinning of trees within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating. Approximately 0.03 acres of PSS and 0.79 acres of PFO wetlands are located in the permanently maintained corridor and will be permanently converted to PEM wetlands.

DTE will implement wetland and waterbody crossing procedures and wetland protection measures outlined in its state-approved 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.

Following restoration, DTE will monitor and record the success of wetland revegetation annually until revegetation is successful. Wetland revegetation shall be considered successful if the wetland satisfies the current federal definition for a wetland (i.e., soils, hydrology, and vegetation), vegetation is at least 80 percent of either the cover documented for the wetland prior to construction or in adjacent wetland areas not disturbed by construction, and invasive species and noxious weeds are absent unless they are abundant in adjacent areas not disturbed by construction. For any wetland where revegetation is not successful at the end of three years, a remedial revegetation plan to actively revegetate wetlands will be developed and implemented (in consultation with a professional wetland ecologist), and a progress report will be filed annually with FERC wetland revegetation is successful.

DTE has developed a Project-specific wetland mitigation plan through consultation with the USACE and PADEP. The Project-specific wetland mitigation plan proposes mitigation at the Oley Mitigation site located in Oley and Pike Townships, Berks County, Pennsylvania to offset permanent conversion impacts to PSS and PFO wetlands resulting from the Project. A total of 3.72 acres of PEM wetland enhancement is proposed.

Waterbody Crossings

PADEP Chapter 105 Water Obstruction and Encroachment Permits and USACE wetland and waterway crossings (Section 404) Permits are required for the Project. The status of the required permit applications is provided in Table 2 of this docket.

The pipeline will directly cross a total of 17 waterbodies. Eleven (11) of these water body crossings will be completed using open cut dry crossing methods, five (5) will be crossed using HDD and one (1) will be crossed by conventional bore. Five (5) additional waterbodies are located within the construction workspace, but are not directly crossed by the pipeline.

DTE intends, to the extent practicable, to perform stream crossings during the dry season to minimize impacts to the stream. Weather forecasts will be factored into scheduling work for individual crossings. Based on the characteristics of the waterbodies, it is anticipated that the majority of the intermittent (10 feet or less from water's edge to water's edge) and ephemeral streams may be dry (no flow) at the time of crossing. Crossing of intermittent and ephemeral streams during no flow situations will be via open cut with provisions to employ a dry crossing if

conditions change during construction. In the event that silt-laden water is encountered below the dry stream bed, trench dewatering will be performed in accordance with the ESC Plan, which specifies the use of sediment filtering bags whenever silt-laden water is pumped from the pipeline trench.

Under conditions of stream flow, DTE will utilize a dry crossing method, which will be implemented at the contractor's discretion and the approval of DTE's EI and scaled accordingly to prevent interruption of stream flow and maintain water quality. The docket holder indicated that the dam and pump or flume stream crossing method is the preferred option but a cofferdam may be used depending on the volume of flow. A brief description of the dry crossing methods that will be used at the waterbody crossings are presented below.

Dry crossing methods involve the use of a flume pipe(s) and/or dam and pump to divert the stream flow over the construction area to allow trenching of the stream crossing in drier conditions while maintaining stream flow. The Dam and Pump Crossing Method will be used where pumps can adequately transfer water around the work area and there are no concerns about sensitive species passage. The Dam and Pump method ensures stream flow is maintained. Potential water quality impacts are minimized or avoided by screening pump intakes and preventing streambed scour at the pump discharge by utilizing an energy dissipater. The Flume Stream Crossing Method requires installation of one or more flume pipe(s) to convey water across the trench and a diversion structure to funnel water into the flume pipe(s). The Flume crossing method ensures stream flow is maintained. Water quality impacts are minimized because trench spoil does not come into contact with stream water and, therefore, stream sediment is not mobilized. Cofferdams utilize temporary box shaped structures constructed within the stream channel to provide a dry working environment and facilitate the installation of the pipeline. Based on drawings in the ESC Plans, DTE will construct the cofferdams with sandbags lined with impervious membrane or sandbags and preformed concrete jersey barriers with impervious liners.

The HDD method involves a specialized machine to drill under the waterbody and pull back a pipe string as the drill pipe is withdrawn. The HDDs will allow for trenchless construction across the waterbodies and wetlands and will eliminate planned impacts from construction activities within the features. Guidance systems for HDD construction will not require tree clearing. Drilling fluid consists mainly of a bentonite clay-water mixture. After drilling, the drilling fluids and solid cuttings are removed from the drilling pits, stockpiled, tested and transported to a state approved facility for disposal. No discharges of water or drilling fluid from HDD operations will occur. DTE 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.g.).

Restoration activities associated with stream crossings will be performed immediately after completion of pipeline installation. During clearing operations, vegetative strips will be maintained along the bank of the waterbody. Trees will be cut flush with the surface, but no stumps or roots will be removed. The length of actual temporary bank disturbance will be limited to the width of trench excavation necessary to place fabricated pipe in the crossing (typically less than 10 feet)

and the travel area which will be bridged across the stream. Native stone will be used to the extent possible during stream bed restoration and stabilization. During the operational phase, native plant species, with the exception of deep rooting trees, will be allowed to reestablish along the banks of the waterbody. The bank conditions will be inspected twice annually during the operational phase of the Project. Evidence of bank instability caused by pipeline construction or posing a threat to the pipeline will be promptly addressed.

Relationship to Reservoirs, Proposed Reservoirs or Recreation Project Areas

At the pipeline crossing of the Schuylkill River, the Schuylkill River is designated by the PADEP as a wild and scenic river. The Schuylkill Scenic River designation was added to the Comprehensive Plan via DRBC Docket No. D-78-50 CP on July 26, 1978. The Schuylkill River is planned to be crossed by HDD and therefore impacts to the river and its uses is not anticipated.

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 natural gas pipeline will directly cross a total of 17 waterbodies and their associated floodways as well as 5 additional floodways associated with waterbodies located in the workspace but not directly crossed by the pipeline. A total of 2.03 acres of delineated floodway are located within the limits of construction. Floodways where not mapped by FEMA were assumed by the docket holder to extend 50 feet from each bank of the waterbody in accordance with PADEP definitions. FEMA mapping included only one floodway (the Schuylkill River), which will be crossed using HDD.

Permanent facilities located in the floodways are limited to the natural gas pipe, which will be buried a minimum of 4 feet below grade. No permanent above ground facilities are proposed in any floodway. One aboveground facility, a pig receiver located on the Birdsboro Power facility site is located within the FEMA mapped 100-year floodplain of the Schuylkill River, but will be raised above the base flood elevation.

The Project will not permanently alter, modify, or obstruct any watercourses. Temporary equipment, such as dams and pumps, flumes, cofferdams 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. DTE will install the pipelines at dry crossing areas at a minimum depth of 4 feet below each stream channel. No permanent aboveground facilities are proposed on the ground surface within a delineated floodway. 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.

TABLE 1 WATERBODIES AND FLOODWAYS CROSSED BY THE BIRDSBORO PIPELINE PROJECT				
Waterbody ID	Waterbody Name	Milepost	Stream Width (feet)	Flow Type
Schuylkill River 1 Schuylkill River 2	Schuylkill River	0.39 0.48	175* 136*	Perennial
FO2	UNT to Schuylkill River	0.94	1**	Intermittent
KL3	UNT to Monocacy Creek	1.42	2	Intermittent
CH2	UNT to Monocacy Creek	1.63	1.5	Intermittent
CH3	Trib 01729 to Monocacy Creek	1.77	16	Perennial
MU8	UNT to Monocacy Creek	1.84	3	Ephemeral
S4	Monocacy Creek	2.14	15*	Perennial
MB30	UNT to Monocacy Creek	2.23	1*	Ephemeral
MB29	Trib 01738 to Monocacy Creek	2.54	12	Perennial
LP5	Trib 01739 to Monocacy Creek	3.20	13	Perennial
LP7	UNT to Monocacy Creek	3.28	3**	Intermittent
LP12	UNT to Monocacy Creek	3.54	2	Intermittent
BR12	UNT to Monocacy Creek	4.09	4*	Ephemeral
BR10	UNT to Monocacy Creek	4.23	1**	Ephemeral
BR8	UNT to Monocacy Creek	4.35	3**	Ephemeral
F12	Trib 01673 to Manatawny Creek	7.02	3	Perennial
SCH1	Trib 01675 to Manatawny Creek	8.11	4	Ephemeral
AC1	Trib 01676 to Manatawny Creek	8.28	10	Perennial
Little Manatawny Creek 1 (AR-8)	Little Manatawny Creek	10.45	15**	Perennial
Little Manatawny Creek 2	Little Manatawny Creek	10.58	15*	Perennial
HE3	Trib 01687 to Little Manatawny Creek	11.17	10	Intermittent
GF1	Trib 01693 to Manatawny Creek	12.45	12	Perennial

*Denotes HDD Crossing UNT = unnamed tributary
 ** Denotes stream in workspace, but not directly crossed by pipeline

Federal, State, and Local Permits/Approvals

The following table lists approvals related to water resources in the Delaware River Basin for the DTE Birdsboro Pipeline Project.

TABLE 2			
AGENCY	PERMIT	PERMIT NO.	STATUS
FERC	Certificate of Public Convenience and Necessity	CP17-409-000 PF17-1-000	Pending Application filed on May 1, 2017
USACE	Section 404 Permit Section 10 of the Rivers and Harbors Act Authorization	CENAP-OP-R-2016-01085-72	Pending Section 404 Permit application submitted on April 13, 2017
PADEP	Chapter 105 Water Obstruction and Encroachment Permit (Joint Permit)	TBD	Pending Application submitted on April 13, 2017
PADEP	Section 401 Water Quality Certification	TBD	Pending Application submitted on June 23, 2017
Berks County Conservation District	Erosion and Sediment Control General Permit (ESCGP-2)	TBD	Pending Application submitted on April 13, 2017

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-2016-008-1, 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, PADEP and Berks County Conservation District.

b. Sound practices of excavation, backfill and reseeded 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 listed in Table 2 of this docket.

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 the name, address and DRBC docket number of all water suppliers that will provide water used for hydrostatic testing, HDD drilling and dust control activities to the DRBC Executive Director at least 30 days prior to the purchase of the water.

e. The docket holder shall submit a list of the wastewater treatment plant facilities that will used to treat and dispose of water used for hydrostatic testing to the DRBC Executive Director at least 30 days prior to the completion of hydrostatic testing. The information submitted shall include the name and address of the wastewater treatment facility, owner contact information and reference the approved DRBC docket number.

f. 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.

g. 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.

h. 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.

i. 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 it has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval.

j. 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.

k. 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.

l. 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.

m. 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.

n. 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.

o. 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: September 13, 2017