

FILE



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RECEIVED-DOCKETING DIV

April 13, 2009

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PUCO

VIA HAND DELIVERY

Ms. Renee Jenkins
Docketing Chief
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, Ohio 43215-3793

Re: Dominion East Ohio Franklin 20 Inch Pipeline Project
Case No. 8-289-GA-BTX
Certificate Condition No. 4
UPDATED with correction

Dear Ms. Jenkins:

On April 10, 2009, a letter was filed transmitting for filing a copy of the U.S. Army Corp of Engineers approval letter. Through an inadvertent error, the U.S. Army Corp of Engineers' letter was not attached to this letter but was attached to a similar letter of the same date. The purpose of this letter is to attach the U.S. Army Corp of Engineers approval. I apologize for any confusion this may have caused. As corrected, this document is being provided in compliance with Condition No. 4 of the Opinion, Order and Certificate issued March 23, 2009.

If you have any questions, please call me at the number listed above.

Sincerely,

Sally W. Bloomfield

Enclosure

CC: Ray Strom

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DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

REPLY TO
ATTENTION OF

APR 07 2009

Operations and Readiness Division
Regulatory Branch
UN Trib Tuscarawas River-200900245

Paul Emery
East Ohio Gas Company
320 Springside Drive
Akron, Ohio 44333

Dear Mr. Emery:

I refer to your permit application requesting authorization from this office to discharge fill material into waters of the United States in conjunction with the installation of 8.4 miles of 20" gas pipeline between Chippewa Township, Wayne County and Franklin Township, Summit Township, Ohio. The installation of the gas pipeline will involve crossing a total of nineteen streams and nineteen wetlands. Streams proposed for impact are Silver Creek and an unnamed tributary, an unnamed tributary of Chippewa Creek, unnamed tributaries of Nimisila Creek, and the Tuscarawas River and unnamed tributaries. All streams and wetlands proposed for impact are tributaries to the Tuscarawas River, a navigable water of the United States. The purpose of the work is to provide gas storage during the warm weather months and enable the movement of gas from storage to distribution during the winter months. The project would provide current and future gas supplies for customers in Northern Ohio.

The Corps' authority to regulate waters of the U.S. is based, in part, on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Section 404 of the Clean Water Act (CWA) requires that a Department of the Army (DA) permit be obtained prior to the discharge of dredged or fill material into waters of the U.S., including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for any work in, on, over or under a navigable water. In addition, our December 2, 2008 headquarters guidance titled "Revised Guidance on Clean Water Act Jurisdiction Following the U.S. Supreme Court Decision in *Rapanos v. United States* and *Carabell v. United States*" must be followed for the USACE to provide final verification of CWA jurisdiction.

Based on a review of the information provided, approximately 1526 feet of ephemeral, intermittent, and perennial streams and 4.32 acres of wetlands are located within the limits of the project area. This office has determined that these waters may be jurisdictional waters of the United States in accordance with the Regulatory Guidance Letter for Jurisdictional Determinations issued by the U.S. Army Corps of Engineers on June 26, 2008 (RGL No. 08-02). As indicated in the guidance, this PDJ is non-binding and cannot be appealed (33 C.F.R. 331.2) and only provides a written indication that waters of the U.S, including wetlands, may be present on-site. You have declined to exercise the option to obtain an approved JD in this instance and at this time. However, for the purposes of the determination of impacts, compensatory mitigation, and other resource protection measures for activities that requires authorization from this office, the streams

identified will be evaluated as if they are jurisdictional waters of the United States. These waters are correctly delineated on the mapping prepared by GAI Consultants and provided as a part of the February 2009 Department of the Army Permit Application. Additional details concerning these waters may be found in the attached *Preliminary Jurisdictional Determination Form*. You must sign and date the form and return it this office stating your concurrence with the preliminary jurisdictional determination.

The installation of the gas pipeline will involve temporary impacts to six perennial, two intermittent, and four ephemeral streams and ten wetlands. The installation activities will be conducted using the trench and fill method, which will result in the temporary side-casting of the excavated material. Upon the completion of the pipeline installation activities, the streambed and wetlands will be restored to their pre-construction contours and condition. Approximately 47' of stream channel and 0.27 acres of wetland will be temporarily impacted by the installation activities.

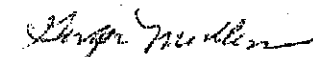
The proposal will also include horizontal directional drilling of five streams, including one HDD crossing of the Tuscarawas River, and nine wetlands. The use of the HDD method would avoid impacts to the higher quality streams and wetlands. The HDD crossing of the Tuscarawas River does require authorization from this office as it a navigable water.

It has been determined the proposed project meets the criteria for Nationwide Permit Number 12 under the March 12, 2007 Federal Register, Final Notice of Issuance of Nationwide Permits (72 FR 11092). This nationwide permit authorization does not obviate the requirement to obtain state or local assent required by law for the activity. The Ohio Environmental Protection Agency (OEPA) has issued the required Section 401 water quality certification for this Nationwide Permit. This nationwide permit expires in May 2012.

In view of the above, your project is authorized subject to the terms and conditions of the enclosed material, including the attached special conditions. It is your responsibility to ensure that your work conforms to all of the environmental management conditions listed within the enclosed material.

Enclosed is a copy of the Nationwide Permit to be kept at the project site during construction. Upon completion of the work, the attached certification must be signed and returned to this office. If you have any questions concerning the above, please contact Kimberly Courts-Brown of the Energy Resource Section at 304-399-5610 or at Kimberly.d.courtsbrown@usace.army.mil.

Sincerely,



Mark A. Taylor
Chief, Energy Resource Section

Enclosures

Copies Furnished:

**Sheri Franz
Dominion Resources Services
D.L. Clark Building – Suite 400
501 Martindale Street
Pittsburgh, PA 15212-5817**

**GAI Consultants Inc.
385 East Waterfront Drive
Homestead, PA 15120-5005**

**Special Conditions for the Nationwide Permit #12 Verification
Issued to East Ohio Gas Company
UN Trib Tuscarawas River-200900**

1. All work will be conducted in accordance with the plans provided with the permit application dated February 2009.
 2. All streams and wetlands impacted by the pipeline installation activities will be restored to their pre-construction contours and condition.
 3. Appropriate, site specific best management practices for sediment and erosion control will be fully implemented during construction activities at the site. All areas disturbed during construction will be seeded to encourage the establishment of a vegetative cover and decrease erosion potential. No area for which grading has been completed will be left unseeded or unmulched for longer than 14 days.
 4. All work will be conducted during low flow periods to reduce sedimentation impacts.
 5. In the event of any inadvertent recovery of archeological or cultural resources during construction activities at the site, you must immediately stop all work and contact this office and the Ohio State Historic Preservation Office at 614-298-2000.
 6. If any additional trees exhibiting habitat conducive for the Indiana bat are encountered, including surrounding trees, they should be saved wherever possible. If they cannot be avoided they should only be removed between September 30 and April 1. In the event seasonal clearing is not possible, you should identify potential roost trees and conduct emergence surveys on those trees. The results will be coordinated with office and the United States Fish and Wildlife Service prior to additional tree removal activities.
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