



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

May 1, 2014

NiSource/Columbia Gas Transmission
1700 MacCorkle Avenue, SE
Charleston, West Virginia 25314
Attn: Jennifer Franco

RE: Phase II Wetland Mitigation Plan Approval Letter
Project Name: NiSource/Columbia Gas
Transmission/Line MB Extension Project
Permit #: 12-NT-0433/201261660
County: Baltimore/Harford

Dear Ms. Franco:

The Mitigation and Technical Assistance Section of the Wetlands and Waterways Program has reviewed the Phase II Wetland Mitigation Plan for the above referenced project in accordance with COMAR 26.23.04. This letter constitutes approval of the Phase II Wetland Mitigation Plan, as required in COMAR 26.23.04. NiSource/Columbia Gas Transmission is hereby authorized by the Water Management Administration to conduct a mitigation project in accordance with plans approved on April 29, 2014 ("Approved Mitigation Plan"), and prepared by Ecotone, Inc. Completion of the mitigation project according to the Approved Mitigation Plan is a Permit Condition of the Nontidal Wetlands and Waterways Permit 12-NT-0433/201261660 issued April 21, 2014. The following is a summary of the nontidal wetland impacts and the mitigation goals and requirements for this project:

1. The project will permanently impact 30,425 square feet nontidal wetlands through conversion of 29,664 square feet forested wetland to emergent wetlands and conversion of 761 square feet scrub-shrub wetland to emergent wetlands, due to the extension of an existing natural gas pipeline.
2. Wetland mitigation for this project will be offsite and will consist of 37,897 square feet nontidal forested wetland creation, 15,682 square feet wetland enhancement of disturbed emergent wetland to forested wetland, and installation of in-stream grade control structures to protect upstream wetlands from being drained by stream headcuts.
3. The primary goal of the mitigation project is to replace and improve upon the biological, water quality, and hydrologic functions of the wetlands that were impacted,



including providing wildlife habitat, furnishing organic material to the aquatic food web, filtering sediments, pollutants and excess nutrients, storing floodwater flow and discharging groundwater.

4. The mitigation project must meet the following project requirements:
 - a. All proposed impacts to waterways and floodplains will require authorization from the MDE Waterways Division.
 - b. All construction shall be performed in accordance with the Approved Mitigation Plan (Exhibit A);
 - c. Construction and planting of the wetland mitigation project shall commence by September 15, 2014 and be completed by May 30, 2015, unless otherwise approved in writing by the Department;
 - d. After 5 years from the completion of the mitigation project, the mitigation project must meet the following Project Standards:
 - i. The Corps and MDE will use best professional judgment, visual observations, and monitoring reports to evaluate attainment of performance standards and in determining whether part of or the entire site is successful or whether corrective actions are warranted. Success will be determined on a plot, well, field, or cell basis.
 - ii. The entire wetland restoration, creation, and enhancement area shall have wetland hydrology, defined as 14 or more consecutive days of flooding or ponding, or a water table 12 inches or less below the soil surface, during the growing season at a minimum frequency of 5 years in 10 (50 percent or higher probability). For the purpose of this determination, the growing season is based on two indicators of biological activity that are readily observable in the field: (1) above ground growth and development of vascular plants and (2) soil temperature as an indicator of soil microbial activity. These indicators of biological activity shall be used for determinations of growing season (as related to the hydrological indicator) and are more fully described in the appropriate regional supplement to the Corps of Engineers Wetland Delineation Manual.
 - iii. Living native plant density in forested and shrub/scrub wetland areas of at least 600 living woody stems with a minimum height of 10 inches per acre with an indicator of FAC or wetter shall be established by the end of the monitoring period.

- iv. Greater than 85% of the wetland mitigation site shall be vegetated (either by planted or naturally revegetated plants) by native wetland species similar to those found in the nontidal wetland lost or by a species composition acceptable to the Wetlands and Waterways Program. Vegetative communities not acceptable to the Program would include those communities dominated by common reed (*Phragmites australis*) or other nuisance vegetation, or communities which are dominated by facultative upland or upland species.
 - v. The entire wetland restoration, creation, and enhancement area shall have active hydric soil conditions that meet the Hydric Soil Technical Standard (HSTS) developed by the National Technical Committee for Hydric Soils (Technical Note 11). The HSTS requires the following documentation of anaerobic conditions and saturated conditions for a soil to be considered hydric:
 - (1) For a soil to meet the “Saturated Conditions” part of the HSTS, free water must exist within 10 inches (25 cm) of the ground surface for at least 14 consecutive days; and
 - (2) Anaerobic conditions must exist within 10 inches (25 cm) of the ground surface for at least 14 consecutive days. Anaerobic conditions may be determined by one of the following methods, as detailed in the HSTS:
 - a. Positive reaction to alpha-alpha-Dipyridyl, determined at least weekly.
 - b. Reduction of iron determined with IRIS tubes installed for 30 days.
 - c. Measurement of redox potential (Eh) using platinum electrodes, determined at least weekly.
 - vi. In-stream structures must be stable and in good condition. Stream restoration should be meeting project purpose, including providing grade control to stop the headcut from migrating upstream.
 - vii. The mitigation site shall provide the functional goals and objectives established in this Phase II Mitigation Plan Approval Letter, and
5. If the mitigation project does not meet the Project Standards, the Permittee is responsible to remediate the mitigation site or otherwise complete their mitigation requirement to the satisfaction of the Department.

6. **The permittee or their successors or designees are required to monitor the mitigation site and submit annual monitoring reports** (see Exhibit B - Monitoring Protocol for Wetland Mitigation Projects) to the Wetlands and Waterways Program, Mitigation and Technical Assistance Section for a period of ten years from the completion of the construction of the mitigation site. Monitoring reports should be submitted for years 1, 2, 3, 5, 7, and 10. The Department may require that this monitoring period be extended if the project is not meeting the Project Standards. The first monitoring report is due the year the mitigation planting occurs, unless planting occurs after April 15, in which case the first monitoring report will not be due until the end of the next year. In addition to what is required on the attached Monitoring Protocol, you shall also address what, if any, modifications will be necessary to meet the goals set forth for this mitigation project. Annual monitoring reports shall be submitted to the Section no later than December 31 of each calendar year.
7. The Department may require, or the permittee may request, modifications to an Approved Mitigation Plan during construction. Modification, substitution, or other deviations from an approved mitigation plan may not be made without approval. Please contact the Mitigation and Technical Assistance Section if modifications to the approved mitigation plan are necessary.
8. The permittee is hereby advised that this Phase II Wetland Mitigation Plan Approval Letter does not authorize any injury to private property, any invasion of rights, or any infringement of federal, State or local laws or regulations, nor does it obviate the need to obtain required authorization or approvals from other State, federal or local agencies as required by law.
9. The permittee shall file a surety bond or alternate form of security acceptable to the Mitigation and Technical Assistance Section within 60 days of this Phase II mitigation plan approval letter, pursuant to COMAR 26.23.04. The surety of \$48,813.78 shall be conditioned upon successful completion of the mitigation project by the permittee according to an approved Phase II Mitigation Plan. The surety bond or alternate form of security should be written so that liability continues until the Department notifies the surety or financial institution in writing that construction of the mitigation project was successfully completed. If the U.S. Army Corps of Engineers (Corps) also requires financial assurances for the mitigation site, the permittee may propose to the Department that the Corps' required financial assurance also satisfy MDE's requirement.
10. The Department's representatives, including its Compliance Program, shall have the right to inspect the mitigation project at any time during construction and during the monitoring period to assess the viability of the mitigation project and to determine compliance with the approved plans and terms of this letter.

11. The permittee is hereby advised that failure to submit an annual monitoring report and to complete the mitigation project in accordance with the terms of this letter and the exhibits attached hereto is a violation of State law and may result in civil or criminal charges being brought against you and the assessment of a fine of up to \$10,000 for each day of the offense.
12. Provide a copy of the recorded easement, Declaration of Restrictive Covenants, or other approved protection mechanism within 60 days of the completion of construction of the mitigation project. The protective mechanism must include language to allow for maintenance and repair activities authorized by the Department of the Environment and the Army Corps of Engineers that are necessary for the mitigation site to function as designed.
13. The permittee is required to notify the Mitigation and Technical Assistance Section upon the start of grading and the completion of planting of the mitigation project.
14. An "as-built" site design plan shall be submitted to this office within 60 days of the completion (including grading, planting, and/or vegetative stabilization) of the mitigation project. If the project was built as planned, a notification stating that can substitute for the "as-built" plan.
15. Prior to termination of the monitoring period, any silt fence, tree protection, and tree stakes utilized in the mitigation site must be removed to the satisfaction of the Department.
16. If the permittee, as stated in the authorization, changes, the permittee must notify the Mitigation and Technical Assistance Section. If the mitigation obligation (e.g. grading, planting, monitoring) is to be transferred to another party, the permittee or authorized person must notify the Mitigation and Technical Assistance Section.

Failure to comply with these conditions may result in legal action being taken by the Department. By commencing construction, you agree to comply with the terms and conditions of this letter and all exhibits attached hereto. If you have any questions regarding this letter or its terms and conditions, please call me at (410) 537-4018.

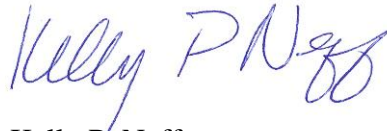
Columbia/Line MB - Phase II Wetland Mitigation Plan Approval Letter

Permit # 12-NT-0433/201261660

May 1, 2014

Page 6

Sincerely,



Kelly P. Neff

Mitigation and Technical Assistance Section, Chief
Wetlands and Waterways Program

Attachments:

Exhibit A - Approved Mitigation Plan

Exhibit B - Monitoring Protocol for Wetland Mitigation Projects

cc:

MDE Compliance

Phatta Thapa (MDE - digitally)

Cheryl Kerr (MDE - digitally)

Jim Morris (Ecotone - digitally)

Abbie Hopkins (Corps - digitally)