DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATERWAYS ENGINEERING AND WETLANDS
GENERAL PERMIT
BWEW-GP-5
UTILITY LINE STREAM CROSSINGS

1. **GENERAL DESCRIPTION AND AUTHORITY** - The Department of Environmental Protection hereby authorizes, by general permit, subject to the terms and criteria set forth, the installation, operation and maintenance of utility line stream crossings of the regulated waters of the Commonwealth. This authorization is under Section 7 of the Dam Safety and Encroachments Act, 32 P.S. §§693.7, et seq., and the rules and regulations promulgated thereunder at §§105.441-105.449 (relating to general permits).

2. **DENIAL OF AUTHORIZATION** - The Department shall have the discretion, on a case-by-case basis, to deny, revoke or suspend the authorization to use this general permit for any project which the Department determines to have a substantial risk to life, property or the environment or otherwise could not be adequately regulated by the provisions of this general permit.

3. **DEFINITIONS** - The following terms as used in this general permit shall have the following meanings:

   BODY OF WATER - Any natural or artificial lake, pond, reservoir, swamp, marsh or wetland.

   FLOODWAY - The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood.

   INSTALL - To construct, deposit, place, lay or set in place.

   OWNER - Any person who owns, controls, operates, maintains, or manages a dam or reservoir, water obstruction, or encroachment.

   PERSON - Any natural person, partnership, association, corporation, public utility, municipality, municipal authority, political subdivision of the Commonwealth, receiver or trustee and any department, board, commission, or authority of the Commonwealth.

   REGULATED WATERS OF THE COMMONWEALTH - All watercourses, streams or bodies of water and their floodways wholly or partly within or forming part of the boundary of this Commonwealth.

   RESERVOIR - Any basin, either natural or artificial, which contains or will contain the water or other fluid or semifluid impounded by a dam.

   STOCKED TROUT STREAM - Streams classified as approved trout waters by the Fish and Boat Commission. Classification may be verified by contacting the Fish and Boat Commission's Regional Office or the Division of Environmental Services. See “Exhibit A”.

   SUBMERGED LANDS OF THIS COMMONWEALTH - All waters and permanently or periodically inundated lands owned by the Commonwealth, including all lands in the beds of navigable lakes and rivers and beds of streams declared public highways which are owned and held in trust by the Commonwealth.

   UTILITY LINE - Any pipe or pipeline for the transportation of a gaseous, liquid, liquifiable or slurry substance or, any cable, conduit, line or wire for the transmission of electrical energy, telephone, telegraph, radio, or television signals, including cathodic corrosion protection.

   WATERCOURSE - Any channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

WETLANDS - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adopted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes but is not limited to wetland areas listed in the State Water Plan, the United States Forest Service Wetlands Inventory of Pennsylvania, the United States Fish and Wildlife Service Wetlands Inventory Maps, as utilized by the Pennsylvania Coastal Zone Management Program and any wetland area designated by a river basin commission.

WILD TROUT STREAMS - Streams classified as supporting reproducing trout populations by the Fish and Boat Commission. Classification may be verified by contacting the Fish and Boat Commission's Regional Office or the Division of Environmental Services. See “Exhibit A”.

4. **SUBMERGED LANDS OF THIS COMMONWEALTH** - This General Permit shall not be effective to authorize any project over, across or occupying submerged lands of this Commonwealth until the owner has obtained a license from the Department authorizing the occupation of such submerged lands issued under Section 15 of the Dam Safety and Encroachments Act, (32 P.S. §693.15), Section 514 of The Administrative Code of 1929 (71 P.S. §194), or other applicable laws. Upon receipt of notification from the owner, the Department will review the project to determine if its location is over, across or occupies submerged lands of the Commonwealth.

5. **SPECIFIC AREAS WHERE GENERAL PERMIT DOES NOT APPLY** - This general permit is not authorized in the following areas:

   a. Historic, cultural or archaeological sites as identified in the latest published version of the Pennsylvania Inventory of Historical Places or the National Register of Historical Places.

   b. Local historical sites officially approved or recognized by a municipality.

   c. Sites identified in the latest published version of the National Registry of Natural Landmarks.

   d. Areas in or within 100 feet of a watercourse or body of water designated as or nominated for a National or State Wild or Scenic River in accordance with the National Wild and Scenic Rivers Act of 1968 or the Pennsylvania Scenic Rivers Act (32 P.S. §§820.21-820.29).

   e. Important wetlands regulated under §105.17 (relating to special criteria for projects affecting important wetlands).

   f. Wetlands, greater than ten (10) acres in size.

   g. Stocked trout streams from March 1 through June 15, wild trout streams from October 1 through December 31 and Lake Erie tributaries from September 1 through December 1 unless approval is obtained from the Fish and Boat Commission's Division of Environmental Services.

   h. Reservoirs.

   i. Streams or water bodies designated as Exceptional Value Waters as defined and listed in Chapter 93 (relating to water quality standards).

6. **OTHER PERMITS** - Nothing in this General Permit relieves the owners of the obligation of complying with all Federal, Interstate Compact and State laws, regulations and standards for the construction, operation or maintenance of the utility lines.

7. **NOTIFICATION OF PROPOSED USE OF GENERAL PERMIT** - Prior to construction the owners shall submit the General Permit Registration form along with the required attachments to the delegated County Conservation District or to the appropriate DEP Regional Office’s Permitting

and Technical Services Section (see attached listings). A copy of the General Permit Registration form shall also be sent to the municipality and county in which the work will be performed. **The owner may <u>not</u> begin work until he has notified the appropriate office and received an acknowledgement of that notification.**

8. **FEES** - The fee required for a project authorized under this General Permit shall be consistent with 25 PA Code §105.13 (relating to regulated activities – information and fees).

9. **EFFECTIVE TIME PERIOD** - This general permit will remain in effect indefinitely unless specifically modified, suspended or revised by the Department.

10. **SUSPENSION, MODIFICATION OR REVOCATION** - The Department may suspend, modify, or revoke this General Permit at any time upon notice in the <u>Pennsylvania</u> <u>Bulletin</u>.

11. **PROJECT INTERFERENCE** - This general permit does not authorize any interference with any existing or proposed Local, State, Federal or Federally Licensed Project, and permittee shall not be entitled to compensation for damage or injury to the work authorized herein which may be caused by or a result of existing or future operations undertaken by the United States, the Commonwealth of Pennsylvania or its Political Subdivisions in the public interest.

12. **CONDITIONS**

    a. The maximum size utility line allowed is 36 inches in diameter.

    b. All utility lines under streambeds shall be located such that there will be a minimum of three (3) feet of cover between the top of the utility line or encasement and the lowest point in the natural contour of the streambed, unless the utility line is in rock, where a minimum cover of one (1) foot shall be provided.

    c. Trenches excavated for the installation of utility lines shall be the minimum width necessary. As soon as the utility line is installed and tested to ascertain no leakage, appropriate new or previously excavated backfill material shall be placed in the trench and the area restored to its original condition and elevation and stabilized. Backfill material stored in connection with the installation must be properly retained out of the floodway so as to prevent its discharge, washings or runoff from entering the waterway prior to its placement as backfill.

    d. Adequate measures shall be used to prevent sedimentation from the trench from entering the stream.

    e. The backfilling of the trench in which the pipe will be laid shall be done so as to eliminate the formation of a permanent ridge in the streambed.

    f. During construction activities, all public and private property including existing vegetation, landscape features and monuments within, along and adjacent to the work area, shall be protected and preserved to the maximum degree possible. This shall include, but not be limited to, precautions taken to minimize damage, erosion, injury, or destruction; prevent pollution; provide protection of all trees and other woody plants; special care being taken to protect the natural vegetation and surroundings to include all natural drainageways, ponds, lakes, swamps, woods and fields; and storage of materials in such manner to prevent leaching which would be injurious to soils and to plants. Precautions should be taken to prevent damage to pipes, conduits and other underground structures.

    g. Archaeological artifacts discovered during the performance of work authorized under this general permit must be adequately protected and their discovery promptly reported to the Bureau for Historic Preservation, Historical and Museum Commission, 400 North Street, Second Floor, Harrisburg, PA 17120-0093, telephone (717) 783-8946.

h. Owners shall investigate for drinking water intakes or reservoirs for public and private water supplies within five (5) miles downstream of the crossing and written notice shall be given at least ten (10) days prior to construction to operators of any such intakes or reservoirs. Owners must notify public and private water supply operators immediately and no longer than one (1) hour after an occurrence at the crossing site which results in the release of suspended solids and turbidity to the stream.

i. Mats, pads, or other similar devices shall be used where crossings of wetland areas by construction equipment cannot be avoided. Original grades through wetlands must be restored after trenching and backfilling. Any excess fill material must be removed from the wetland and not spread on-site. Mounding of fill material to allow for settlement in the trench will be permitted in accordance with best construction methods.

j. Deposition of dredged or excavated materials and all earthwork operations will be carried out in such a way as to minimize erosion of the material and preclude its entering into any wetland adjacent to the utility line crossing.

k. Utility line crossings of streams should be accomplished so that the line is at a right angle to the stream where possible, unless the crossing is installed on an existing bridge.

1. Whenever possible, in accordance with best construction methods utility line crossings are to be made “in the dry” by installing sandbag and plastic dams and piping stream flow through the affected area.

m. Prior to the use of explosives in a watercourse or body of water the permittee shall secure a written permit from the Fish and Boat Commission, under the Pennsylvania Fish and Boat Code 30 Pa. C.S. §2906 (relating to permits for use of explosives). Requests should be directed to the Fish and Boat Commission, Division of Environmental Services (see “Exhibit A”).

13. **POLLUTION INCIDENT PREVENTION AND MITIGATION** - For projects constructed under the authorization of this General Permit which transmit hazardous or toxic material, the owner shall take the following actions to prevent or alleviate the harm from pollution, under the requirement of Chapter 101 (relating to special water pollution regulations):

a. Develop and implement a Preparedness, Prevention and Contingency (PPC) Plan in accordance with Departmental guidelines. The Department reserves the right to require the PPC Plan to be revised or amended for any deficiencies subsequently identified by the Department.

b. In the event a pollution incident occurs which causes or threatens to cause surface or groundwater pollution, the owner shall:

(1) promptly notify the Department by telephone of the location and nature of the danger,

(2) notify all known downstream users of the water,

(3) immediately take all necessary steps to prevent injury to property and downstream users, and protect waters from pollution or danger of pollution,

(4) remove any contamination from affected ground or surface water to the extent required by the Department.

14. **DEPARTMENT INSPECTION** - As a condition of use of this general permit, and of the owner's authority to conduct the activities authorized by this general permit, the owner hereby authorizes and consents to allow authorized employees or agents of the Department, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed,

operated or maintained. The authorization and consent shall include consent to conduct tests or sampling, to take photographs, to perform measurements, surveys and other tests, to inspect the methods of construction, operation or maintenance, to examine and copy books, papers and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated or maintained in accordance with the terms and criteria of the general permit. This general permit condition is referenced in accordance with Section 16 of the Dam Safety and Encroachments Act, 32 P.S. §693.16, and in no way limits any other powers granted under the Dam Safety and Encroachments Act.

15. **ACTIVITIES NOT IN ACCORDANCE WITH THE TERMS OR CONDITIONS** - If the Department determines, upon inspection, that the construction, operation or maintenance of a project has violated the terms or conditions of this general permit or of Chapter 105, the Department may take such actions, legal or administrative, that it may deem to be appropriate.

16. **STRUCTURE REMOVAL** - The owner shall remove all or any portion of the utility line project upon written notification to the owner by the Department in the event the project is causing an adverse impact on public health, safety or the environment or in any other manner violates the conditions of this general permit or Chapter 105.

17. **PROPERTY RIGHTS** - This general permit does not convey any property rights, either in real estate or material, or any exclusive privileges; nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations.

18. **OTHER APPROVALS** - The owner shall secure all other approvals that may be necessary under other Federal, State or local laws or regulations, including the specific permission of owners of bridges or other structures to which the utility line may be attached.

19. **FISH AND BOAT COMMISSION NOTIFICATION** - The owner shall notify the Pennsylvania Fish and Boat Commission's Regional Field Office Manager, see “Exhibit A”, responsible for the County where the activities are proposed ten (10) days prior to start of construction. Notification by postcard is suggested. The project site shall at all times be available for inspection by authorized officers and employees of the Fish and Boat Commission.

20. **BEST MANAGEMENT PRACTICES** - Work must be done in compliance with Chapter 102 (relating to Erosion Control). Prior to construction an Erosion and Sediment Control Plan must be reviewed and determined adequate by the County Conservation District in which the activities are proposed and implemented prior to, during and after construction. The County Conservation District shall be notified ten (10) days prior to the start of construction. The project site shall at all times be available for inspection by authorized employees of the County Conservation District. The Erosion and Sediment Control Plan shall be available at the site.

21. **UTILIZATION OF GENERAL PERMIT BWEW-GP-8, TEMPORARY ROAD CROSSINGS** - Temporary road crossings of streams and causeways that are necessary for equipment to move back and forth across a stream and located adjacent to the utility line crossing are authorized by and must be constructed in accordance with BWEW-GP-8. The owner shall indicate utilization of BWEW-GP-8 on the General Permit Registration form. An owner constructing temporary road crossings in those areas excluded from the application of BWEW-GP-8 must apply for an individual water obstruction permit for those road crossings.