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*Via Electronic Mail*

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**Re: ETC Northeast Pipeline, LLC – Revolution Cryogenic Plant Failure to Commence Construction of Second Proposed Cryogenic Process Unit (GP5-63-01001A)**

Dear Mr. Gorog, Mr. Halloran, and Mr. Heilman,

The Environmental Integrity Project (“EIP”) writes to request that the Pennsylvania Department of Environmental Protection (“DEP”) confirm that the authorization to construct a second proposed cryogenic process unit under GP5-63-01001A has expired because ETC Northeast Pipeline, LLC (“ETC”) failed to commence a continuous program of construction of the unit in accordance with 25 Pa. Code 127.13 and Section A Condition 6(b) of GP-5 by August 7, 2021.

Pennsylvania rules and the conditions of the General Plan Approval and/or General Operating Permit BAQ-GPA/GP-5 (“GP-5”) set deadlines for the construction of new pollution sources and require the submission of a new application to construct if a permittee fails to meet these deadlines. *Id.* Specifically, 25 Pa. Code 127.13(b) requires that a new permit application be submitted if construction has not commenced within 18 months of the issuance of the permit.

This requirement is incorporated in Section A Condition 6(b) of the GP-5 permit<sup>1</sup> and applicable to nonmajor or State-Only sources.<sup>2</sup>

DEP initially authorized the construction and authorization of ETC's first cryogenic process unit on August 2, 2016. (*See* Attachment 1, August 2, 2016 PADEP Review of General Permit Application AQ Permit File GP1-63-01001, GP5-63-01001). Approximately two years later, DEP authorized the construction and operation of a second cryogenic process unit at the ETC site under GP5-63-01001A and GP1-63-01001A, which required construction to begin by February 7, 2020 (18-months after the permit was approved). (*See* Attachment 2, August 7, 2018 PADEP Review of General Permit Application for GP1-63-01001A and GP5-63-01001A). On February 6, 2020, DEP approved an extension of the GP5-63-01001A permit's 18-month construction commencement deadline to August 7, 2021. (*See* Attachment 3, Extension of Construction Period for GP5-63-01001A/AG5-63-00004A, PADEP, February 6, 2020).

On May 12, 2021, ETC submitted a second request to DEP to extend the GP5-63-01001A permit's 18-month construction commencement deadline, stating that, "[c]onstruction of the individual sources in the second cryogenic process is anticipated to commence after the current construction extension expires." (*See* Attachment 4, ETC Northeast Pipeline, LLC – Revolution Cryogenic Plant Extension Request (GP5-63-01001A/AG5-63-00004A and GP1-63-01001A)). Based on the information available to EIP, it does not appear that DEP approved ETC's second extension request.<sup>3</sup> Although ETC notified DEP that it commenced construction of all of the equipment associated with GP5-63-01001A and GP1-63-01001A on August 5, 2021,<sup>4</sup> a DEP inspector later determined that "no physical construction activities have begun at the facility" as of August 19, 2021. (*See* Attachment 6, Inspection Report, Pennsylvania DEP, August 19, 2021). An aerial photograph taken on October 1, 2021 also shows that construction of the second cryogenic process unit has not begun. (*See* Attachment 7). Thus, ETC did not commence construction by August 7, 2021 and the approvals to construct and operate the second cryogenic process unit are no longer valid. *See* 25 Pa. Code 127.13; GP-5.

In conclusion, EIP requests that DEP confirm that the authorizations to construct and operate a second cryogenic process unit under GP5-63-01001A are no longer valid because ETC did not meet the commencement of construction deadlines and that ETC must submit a new

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<sup>1</sup> *See* General Plan Approval And/or General Operating Permit BAQ-GPA/GP-5: Natural Gas Compression Stations, Processing Plants, and Transmission Stations, available at <http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=19614&DocName=03%20GP-5%20NATURAL%20GAS%20COMPRESSION%20STATIONS%2C%20PROCESSING%20PLANTS%20AND%20TRANSMISSION%20STATIONS%20GENERAL%20PLAN%20APPROVAL%20AND%20FOR%20GENERAL%20OPERATING%20PERMIT.PDF%20%20%3Cspan%20style%3D%22color%3Agreen%3B%22%3E%3C%2Fspan%3E%20%3Cspan%20style%3D%22color%3Ablue%3B%22%3E%3C%2Fspan%3E>.

<sup>2</sup> *See* Notice of Final-Form Rulemaking, 37 Pa.B. 2365 (May 19, 2007), available at <http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol37/37-20/924.html>.

<sup>3</sup> EIP submitted an informal Right-to-Know Law request for, among other things, records related to the construction of the second cryogenic process unit on October 13, 2021. EIP did not receive a copy of an approval of the extension request and no approval was published in the Pennsylvania Bulletin.

<sup>4</sup> *See* Attachment 5, ETC Commencement of Construction Notice for Permits GP5-63-01001A & GP1-63-01001A, August 9, 2021.

Application for Authorization to Use for GP-5 prior to construction of the second unit. We look forward to your response.

Sincerely,

/s/Philip Sebasco

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