The New Jersey
NATURAL LANDS TRUST

August 12, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: Docket# CP15-558

Dear Secretary Bose:

Please accept this comment on behalf of the New Jersey Natural Lands Trust (NJNLT), an independent New Jersey state agency that is in but not of the New Jersey Department of Environmental Protection (NJDEP). This comment concerns FERC's draft Environmental Impact Statement (EIS) issued on July 22, 2016. FERC's issuance of the draft EIS is a huge step towards the issuance of a Certificate of Public Convenience and Necessity (Certificate).

In its draft EIS, FERC acknowledges that it has "received many comments during scoping questioning the pipeline routing in specific locations, and/or requesting review of route variations to avoid or minimize impacts on specific areas." FERC acknowledges that not all of these concerns have been addressed, but through its issuance of the draft EIS, FERC suggests that the fact there are route alternatives under consideration is sufficient to move the project forward. This is similar to the position taken by PennEast that a rigorous alternatives analysis will be undertaken later as part of the NJDEP permitting process.

The NJNLT maintains that FERC's approach of issuing a draft EIS subject to PennEast's future conduct of a rigorous and comprehensive analysis of route alternatives during the permitting process is fundamentally flawed. The NJNLT has consistently advocated since March 2015 that an alternate route be developed that avoids the NJNLT's Gravel Hill Preserve. As PennEast has been unwilling to provide the analysis requested by the NJNLT and FERC prior to FERC's issuance of the draft EIS, one must wonder why PennEast would be willing do so after obtaining the Certificate authorizing them to proceed with the power of condemnation, a time period when they will undoubtedly be busy applying for permits and approvals for their proposed route.

The NJNLT submits that PennEast's offer to consider a route change around the Gravel Hill Preserve amounts to a delaying tactic, not an open and honest dialogue with the NJNLT concerning potential alternatives. At an initial meeting with the NJNLT on March 29, 2015, the NJNLT first proposed an alternate route (now designated as Route Deviation #1705). PennEast summarily dismissed this alternative leading to the NJNLT's suggestion of what is now specified as Route Deviation #1817. After PennEast rejected Route Deviation #1817, based on some general findings (conclusory statements) about potential impacts, PennEast now claims to be considering proposed Route Deviation #1705. The attached email exchanges demonstrate that

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its latest claim to be considering an alternative route is just more of what occurred in the months following the initial March 29, 2015 meeting with PennEast. When the NJNLT has requested status updates regarding its analysis of Route Deviation #1705, PennEast has refused, responding that information will be provided as part of the permitting process after FERC issues a certificate of public convenience and necessity. PennEast's ability to move forward based on superficial conclusory statements is especially frustrating given that as of February 10, 2016, FERC seemed to agree with the NJNLT that PennEast should be required to provide a comprehensive alternatives analysis. Indeed, FERC specifically required in Request #29 (Resource Report 10 - Alternatives) that PennEast provide "an engineering and environmental analysis of the county roadway route alternative identified by the NJNLT in its December 17, 2015 letter to FERC as a potential means to avoid impacts on the Gravel Hill Preserve near MP 80.5."

While PennEast submitted a response dated February 22, 2016 to FERC, by no stretch of imagination can it be considered an "engineering and environmental analysis." PennEast merely submitted a couple of paragraphs listing the numbers of potential C1 stream crossings, preserved farmlands, wetlands, and historic districts that would be impacted by Route Deviation #1817 and a number of increased structures within 50 feet of the construction work area. This was at best a cursory "environmental analysis," and in no way an "engineering analysis." Moreover, the "environmental analysis" was disingenuous in that if the pipeline was located in the county roads as proposed by the NJNLT, the listed environmental impacts would be nonexistent. On the issue of solely or primarily using the county roads, PennEast indicates that Route Deviation #1817 is "located within roadways to the greatest extent possible. However, due to land uses located along these roadways, the route deviation is anticipated to be located adjacent to the paved portions of the roadways through certain areas." Conveniently, this statement was made without an "engineering analysis" or even a detailed description of these land uses, such as location and extent.

In addition, with respect to PennEast's concern about potential impacts to historic districts, it must be noted that PennEast's proposed route through the Gravel Hill Preserve traverses known archaeological sites of significance to the Delaware Tribe. Therefore, for either their proposed route or Route Deviation #1817, FERC and PennEast would need to go through the Section 106 process which involves consultation among all consulting and interested parties to identify historic resources within the area of potential effect (APE), evaluate their significance, and assess the impacts of the project on those historic resources. Section 106 is a consultative process where the views of consulting parties and the interested public are taken into account in the decision-making process. If there will be adverse effects to historic resources, FERC and PennEast, in consultation with consulting and interested parties, must identify ways to avoid, minimize, and/or mitigate the impacts.

On March 3, 2016, the NJNLT filed a comment noting the inadequacy of PennEast's February 22, 2016 response. Despite this, FERC now seems to have abandoned its position on the need for a robust alternatives analysis, including consideration of alternate routes to avoid the NJNLT's Gravel Hill Preserve. The position taken by PennEast, and apparently accepted by FERC, is that the alleged consideration of a different Route Deviation (#1705) should suffice in the absence of a comprehensive and rigorous analysis or justification for the rejection of Route Deviation #1817.

It is important to note that PennEast has specifically designed the route to avoid traversing lands preserved by federal easements but it is quite willing to trample upon state preserved lands because FERC's Certificate will allow them to do so. The NJDEP has asked PennEast to consider NJNLT lands as the most important state preserved lands to avoid, yet PennEast refuses to do so. This refusal is especially insulting because the NJNLT was specifically created in 1969 by the New Jersey Legislature to preserve lands that protect the state's natural diversity such as endangered species habitat, rare natural features, and significant ecosystems and to ensure the protection of such lands from condemnation. Since 1969, no lands owned or managed by the NJNLT have been condemned. If FERC issues a Certificate to PennEast with the powers of condemnation, this will be the first time in 47 years that the natural diversity of a NJNLT preserve is threatened.

It should also be observed that FERC does not seem to understand the different categories of lands that will be impacted by the PennEast pipeline, if approved. In its draft EIS on page 4-144, FERC mistakenly combines NJNLT lands with other state preserved lands (Alexauken Preserve), county preserved lands (Ted F. Stiles Preserve) and non-profit preserved lands (Wickecheoke Creek Greenway). The two NJNLT preserves located along the proposed route are the Gravel Hill Preserve and Thomas F. Breden Preserve at Milford Bluffs. Perhaps these distinctions should be better understood by FERC before it takes any future actions such as the issuance of the EIS or Certificate.

FERC has an obligation to ensure that reasonable and feasible alternatives are fully reviewed so that approved projects do not result in unnecessary environmental impacts. To date, FERC has not fulfilled this obligation.

Based on the above, we once again respectfully request that FERC require a comprehensive and rigorous analysis by PennEast regarding the environmental and engineering feasibility of Route Deviations #1817 and #1705 before taking any further actions.

Thank you for the opportunity to provide this comment.

Sincerely,

Michael Catania

Michael Catania
Chair

Enclosure

c: Medha Kochhar, FERC
Anthony Cox, PennEast
Jeff England, PennEast
Marilyn Lennon, PS&S
Ruth Foster, NJDEP, PCER
Rich Boornazian, NJDEP, NHRG
John Sacco, NJDEP, SFS
Robin Madden, NJDEP, NHRG
Dan Saunders, NJDEP, SHPO
Robert Cartica, NJNLT

Wild, Cari

From: Wild, Cari
Sent: Friday, August 14, 2015 1:12 PM
To: Jeff England
Cc: Cartica, Bob
Subject: RE: NJ Natural Lands Trust

Dear Jeff,

I just had an opportunity to review the PennEast July 2015 monthly progress report to FERC. In a June 18, 2015 e-mail you noted that PennEast was still evaluating routes to avoid the NJ Natural Lands Trust's Gravel Hill Preserve. The July 2015 monthly progress report suggests otherwise:

PennEast then explained alternatives to the route that were examined to avoid impact to the Gravel Hill parcels and why such alternatives had to be excluded from consideration. These alternatives included routes along Route 29, and the rail right-of-way, along existing overhead transmission right-of-way and horizontal directional drilling. Steep slopes, significant elevation changes and rocky soils are among the challenges in the Gravel Hill parcels. PennEast noted that the project would not prohibit the replanting of trees except in the area directly above the pipeline. Kevin Appelget asked if PennEast looked at routing around the Gravel Hill preserve. PennEast that PennEast had looked at this but it to was less desirable due to greater impacts to resources.

Can you please provide a copy of the analysis that led to the above-stated conclusions in the FERC progress report. In addition, please provide information regarding what resources would be more greatly impacted if PennEast routed the pipeline around the Gravel Hill Preserve.

Thank you for your continuing cooperation.

Sincerely,
Cari Wild

From: Jeff England [mailto:jengland@ugies.com]
Sent: Thursday, June 18, 2015 3:50 PM
To: Wild, Cari
Cc: Cartica, Bob; Marilyn Lennon
Subject: Re: NJ Natural Lands Trust

Hi Cari,

I apologize for the lack of communication on this issue. PennEast has recently hired PS&S to help navigate and conduct a detailed analysis of critical issues in NJ, like these preserves and do all NJ environmental permitting for PennEast.

We're currently still evaluating this area and I'd like to maybe discuss a follow-up meeting once we finished our analysis?

I'm sorry this doesn't answer your concerns but we will work closely with NJDEP on these going forward.

Jeff

On Jun 17, 2015, at 1:19 PM, "Wild, Cari" <Cari.Wild@dep.nj.gov> wrote:

Hi Jeff,

The New Jersey Natural Lands Trust is following up on our March 31, 2015 meeting and the below e-mail exchange that followed our meeting. Please advise as to whether Penn East has evaluated route variations that would avoid impact to the NJ Natural Lands Trust's Gravel Hill Preserve and Thomas F. Breden Preserve at Milford Bluffs. If avoidance is not possible, has Penn East evaluated measures such as directional boring that would limit adverse impacts to Trust preserves?

Thank you for your time and consideration.

Sincerely,
Cari

From: Jeff England [mailto:jengland@ugies.com]
Sent: Thursday, April 16, 2015 12:22 PM
To: Cari Wild
Cc: Bob Cartica; Robin Madden; Bernard Holcomb; West, Jonathan; Sue Quackenbush
Subject: RE: NJ Natural Lands Trust

Hi Cari,

Since we last met, we have been solely focused on preparing or Draft Filing of Resource Reports 1-12. That being said, in order to compile all of the information for these, we have had to put any route variation discussions on hold until after we have filed these drafts. I would expect that we will have our next variation meeting either next week or the week after and will start digging into it at that time. I apologize for the delay on this, but I'm sure you can understand our need to have a brief "pencils down" period so we can put together our draft filing.

We will stay in touch over the next few weeks to update you on what we come up with.

Please let me know if you have any questions,
Jeff

From: Cari Wild [mailto:Cari.Wild@dep.nj.gov]
Sent: Thursday, April 16, 2015 11:32 AM
To: Jeff England
Cc: Bob Cartica; Robin Madden; Bernard Holcomb; West, Jonathan; Sue Quackenbush
Subject: RE: NJ Natural Lands Trust

Hi Jeff,

I am just checking in to see if Penn East has had an opportunity to consider route variations that would avoid impact to the NJ Natural Lands Trust's Gravel Hill Preserve and Thomas F. Breden Preserve at Milford Bluffs.

Thank you.

Sincerely,
Cari Wild

From: Jeff England [mailto:jengland@ugies.com]
Sent: Monday, April 06, 2015 9:31 PM
To: Cari Wild
Cc: Bob Cartica; Robin Madden; Bernard Holcomb; West, Jonathan; Sue Quackenbush
Subject: RE: NJ Natural Lands Trust

Cari,

I apologize for the slow reply, and hope you had a happy Easter. I will follow up on the access request tomorrow morning and will make sure we reach out to you soon soon regarding our continued evaluation on route variations to minimize impacts to the resources mentioned below.

Please feel free to call me at any time if you have any questions/concerns.

Thanks,
Jeff

Jeffrey D. England
Senior Project Manager
UGI Energy Services, LLC.
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Wyomissing PA 19610
Phone: [redacted] ext: [redacted]
Cell: [redacted]

From: Cari Wild [mailto:Cari.Wild@dep.nj.gov]
Sent: Tuesday, March 31, 2015 12:13 PM
To: jengland@ugies.com
Cc: Bob Cartica; Robin Madden
Subject: NJ Natural Lands Trust

Dear Mr. England:

This e-mail follows up on our discussion this morning. In order to survey state-owned property managed by the NJ Natural Lands Trust (Trust), please send me a request for access with information describing the requested activities and the time frame for such access. My contact information is provided below.

The Trust looks forward to hearing back from Penn East regarding the potential for the proposed pipeline to be rerouted to avoid the Gravel Hill Preserve and the project areas for the Gravel Hill Preserve and Thomas F. Breden Preserve at Milford Bluffs. Or, as we discussed, for Penn East to work within the existing 200-foot PSE&G right of way.

Sincerely,

Cari J. Wild
NJ Natural Lands Trust
Mail Code 501-04
PO Box 420