

D&R GREENWAY LAND TRUST



Board of Trustees

September 9, 2016

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Phyllis L. Marchand

Honorable Norman Bay, Chair
Federal Energy Regulation Commission
888 1st Street, NE
Washington, DC 20428

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RE: Docket CP15-558, PennEast Pipeline Project

Secretary

Adrian Huns

Dear Chairman Bay,

Assistant Secretary

Margaret T. Harper

D&R Greenway Land Trust, a registered intervenor, is providing this letter as a follow-up to our previous submission requesting FERC's withdrawal of the Draft Environmental Impact Statement (DEIS) for the proposed PennEast Pipeline project due to lack of sufficient data. Following are some specific concerns that we have with the proposed project and the DEIS.

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Impacts to Preserved Lands

Our preserved lands have been preserved for their value in protecting biodiversity, maintaining air and water quality, and sustaining small local farming operations. These natural areas add to the quality of life for the people surrounding them or visiting them, providing intangible benefits. We are opposed to the placement of pipelines through land that was preserved for these values.

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The proposed pipeline right-of-way (ROW) crosses a property in Hopewell Township (Block 59, Lots 4 & 5) on which D&R Greenway holds a conservation easement. This property was preserved for its conservation and agricultural values and was largely preserved with taxpayer's money. The proposed ROW comes within approximately 200 feet of a residence on the property and the well that services this residence, thus we have a concern regarding water quality. Additionally, when we purchased the easement with taxpayer's money, we purchased a public access right which would be negated by your proposed ROW. This is a serious concern.

The proposed pipeline would cut through the Sourland Mountains, which has been a preservation priority for D&R Greenway for 25 years. We and other conservation organizations continue to preserve properties in the Sourlands because of the region's biodiversity, high quality habitats, and rare species. In fact, D&R Greenway established a "Sister Land Trust" relationship with a conservation organization in Mexico to protect both ends of the flyway for neotropical migrant songbirds. While that relationship dissolved over time, the principals for which it was established remain. Over the years, we have been carrying out restoration efforts to re-forest gaps in the forest canopy to enhance habitat for deep-forest-dwelling species. **The proposed project threatens to fragment and consequently degrade this important area that so many of us have fought to preserve and enhance and undermines the public investment into creating that open space.**

In Memoriam

Brian H. Breuel
Chair 2014-2016

Charles M. Hartman
Chair 2002-2004

Neil Upmeyer
Chair 1998-2001

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The Sourland Mountain region is of critical importance to migrating and breeding birds, including many species of conservation concern. Thirteen of these species are Nearctic-neotropical migrants that are obligate interior forest breeding species, requiring large forest tracts for breeding success. Bisecting intact forest with a pipeline ROW and widening existing ROWs increases negative edge effects such as nest parasitism and predation and allows invasive species to invade the forest interior. There is no other high quality habitat for relocation of these forest interior species in central New Jersey. The affected species are of conservation concern mainly because their habitat is being destroyed. **Healthy forest habitat takes decades to develop - considerably longer than the lifetime of the forest-breeding birds and other forest-interior species, making mitigation for forest impacts impossible.**

Mitigation

The theme throughout the DEIS is reducing impacts to "less than significant levels" through mitigation. The proposed project would entail permanently converting more than 450 acres of forest to herbaceous vegetation; impacting 43 State-designated anti-degradation streams, including removal of riparian zone vegetation; impacting 30 acres of wetlands and crossings of over 100 wetland areas; and disturbing over 400 acres of highly erodible soils, among other resource impacts. However, **there is little information and no evidence, references, or examples in the DEIS that would validate FERC's assertion that their mitigation measures can actually reduce impacts to less than significant levels.** When considering impacts to rare and ecologically complex habitats, such as those that exist in the Sourlands, this lack of information is unacceptable.

Dr. Emile DeVito of New Jersey Conservation Foundation and forest restoration specialist Leslie Sauer have recently investigated the Tennessee Gas/Kinder Morgan Pipeline in the Highlands region and have found that FERC's mitigation measures for impacts to steep slopes, mature forest, sensitive wetland resources and anti-degradation streams are essentially mitigation failures, with the ROW riddled with signs of soil erosion and compaction, and invasive species that threaten nearby natural areas. Given the past examples of mitigation for recently and not-so-recently constructed pipelines (e.g., Texas Eastern Line in Morris County), an Invasive Species Control Plan should be prepared and made available for public review and comment as part of the DEIS review process.

ROWs should be confined to 50 feet and the soil surface should be protected to prevent compaction. Additionally, the No-Net-Loss Reforestation Act should not be confused with forest restoration since the requirements do not include all of the layers of the forest.

The DEIS states that the "purchase of forested land for permanent conservation and/or reforestation areas are other measures under consideration." With no specifics or commitments given, this statement is meaningless and land preservation opportunities are limited.

Water Quality and Arsenic Concerns

We are concerned about the potential for arsenic (As) contamination of groundwater in Hunterdon and Mercer Counties, where the As-rich Passaic Formation gray bed lies. Professor T.C. Onstott of Princeton University's Department of Geosciences has pointed out in testimony that microbial communities stimulated by the release of organic carbon as a result of the

construction activities would reduce arsenate to bioavailable arsenite, thereby mobilizing its spread into groundwater in the long-term.

Independently, Onstott collected soil and sediment samples along the proposed PennEast pipeline to depths of 30 cm. The average from samples overlying the Passaic Formation gray bed was 5.3 parts per million. Note that the NJ Surface Water Quality Standard (SWQS) for arsenic is 0.017 parts per billion (ppb). The levels found in stream channel samples were found to be more than 1,000 times greater than the SWQS. If only 0.0004-0.0006% of the As were released from the soil into the stream water, the levels would exceed the SWQS. PennEast retained Dr. M. Serfes, P.G. of Solution Geosciences, LLC to conduct an As leachability assessment, the results of which are reported in the HMM/Solution Geosciences Report on Arsenic (Shah and Starcher, 2016). The results show the percentage release of As from the sediment cores during the experiments are well in excess of these values.

Further substantiating this concern, Onstott's analyses also show that microbial communities present along the proposed PennEast ROW have a high proportion of bacteria involved in the cycling of As, as well as the reduction of iron III and sulfate. This means that As release into the groundwater from the construction and operation is a certainty, since the potential clearly exists in the microbial communities surrounding the pipeline. Also, with this high proportion of the microbial agents responsible for the corrosion of steel, it also means that the safety of the pipeline itself is at risk.

Aside from potentially contaminating drinking water, As mobilization at the levels that were found in the above studies will have a devastating effect on the lower trophic levels of the stream communities which, in turn, could have a negative impact on stream-dwelling species such as the State-threatened long-tailed salamander whose habitat is crossed by the proposed PennEast ROW.

Despite the high potential for release of As from construction and long-term operation of the project, the DEIS states that *"no mitigation measures related to arsenic mobilization are necessary during Project construction and operation"* and further states *"PennEast has prepared a well testing plan and proposes to conduct groundwater quality testing of potentially affected wells prior to construction that would provide a baseline to determine whether any arsenic increases in groundwater occur after the pipeline is installed and operational. We are recommending that PennEast conduct post-construction testing of potentially affected wells to identify whether arsenic and/or uranium concentrations have increased above safe drinking water levels. In the unlikely event that the construction Project causes a significant impact on a water-supply well, PennEast would provide a treatment system to remove arsenic from the drinking water at individual properties or find an alternative water source."*

This is an incredibly risky approach that endangers our drinking water as well as our stream ecosystems. Also, there is no indication of the length of PennEast's commitment if there is a negative impact on water quality or during long-term operation. **In the interest of public safety, and given the findings of both Onstott and Selfes, AND to be consistent with NEPA guidelines, more thorough investigations of As levels and the potential for release during construction and the long-term should be carried out.** The studies should also include Total Maximum Daily Loads for any stream where the SWQS or background level of As is exceeded.

Without these studies, one cannot conclude that PennEast's current preferred alternative is a safe alternative with regard to water quality.

As previously mentioned, we hold a conservation easement on a property in Hopewell Township where the proposed ROW is approximately 200 feet from a well. In this instance and elsewhere, water contamination is a real and practical concern.

Greenhouse Gas Emissions

The DEIS includes end-use greenhouse gas emissions and emissions for the construction and annual operation. However, there is no accounting for the loss of carbon sequestration due to the clearing of forests. The Council on Environmental Quality (CEQ) issued a final memorandum on August 1, 2016 "Final Consideration for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and Effects of Climate Change in National Environmental Policy Act Reviews." This guidance stipulates that federal agencies more fully examine the impacts of projects on greenhouse gas emissions as part of the NEPA review. In order to comply with this CEQ guidance, **the DEIS needs to be revised to include an evaluation of life-cycle and cumulative impacts.**

In summary, the DEIS for the proposed PennEast pipeline project, as it is presented, fails to avoid, minimize, and mitigate disturbance - the tenets of an environmentally-responsible proposal. Again, we request that FERC withdraw this DEIS until it has obtained all necessary information to make an informed decision regarding the proposed PennEast pipeline project. The public should then have the opportunity to review and comment on all of the available information.

We would appreciate a response to our concerns in writing.

Respectfully,

A handwritten signature in blue ink, appearing to read "John S. Watson, Jr.", with a long, sweeping flourish extending to the right.

John S. Watson, Jr.
Vice President