



Green Sergeant's Bridge

New Jersey's Only Remaining Covered Bridge

Honorable Norman C. Bay, Chair

Federal Energy Regulatory Commission

888 First Street, NE

Washington, DC 20426

# Delaware Township

Hunterdon County, New Jersey

www.DelawareTwpNJ.org

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**Re: Docket CP15-558-000**

Proposed Gas Pipeline, PennEast Pipeline Company LLC

Delaware Township, Hunterdon County

Dear Mr. Bay:

The draft environmental impact statement (DEIS) in the above referenced matter has been issued. The issuance of this draft DEIS contradicts National Environmental Policy Act (NEPA), 42 U.S.C. 4321, et seq. The overarching goal of NEPA is to "insure that environmental information is available to public officials and citizens before decisions are made. . . [and] [t]he information must be of high quality." 40 C.F.R. 1500.1(b):

- NEPA requires a "systematic, interdisciplinary approach which will insure the integrated use of natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment." 42 U.S.C. §4332.
- NEPA requires FERC to take a "hard look" at the impacts. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989). A "hard look" includes information necessary to evaluate environmental impacts and incorporates that information into the DEIS.

Council on Environmental Quality (CEQ) regulations on unavailable information are clear. If the information is obtainable and relevant to the project the agency must wait and obtain the information. 40 C.F.R. 1502.22.

Delaware Township believes that PennEast has not submitted all evaluations necessary to support its application. Further, the Draft Environmental Impact statement (DEIS) fails to address the vast majority of comments provided to FERC by way of the various scoping documents. It relies on incomplete and inaccurate information and as such, should not form the basis for an impartial decision by FERC. We are providing the following comments, several of which have been previously provided and which remain unaddressed in the DEIS.

**1. Comment:** Page ES-3 states: “There are two active quarries within 0.25 mile of the Project area and two active industrial mineral quarries about 4 miles from the Project, all located in Luzerne County. PennEast has contacted the quarry owners and aligned the pipeline to avoid future expansion plans of these quarries. There are no mines or quarries located within 0.25 mile of the Project in New Jersey.”

- The pipeline is within 0.25 miles of the Trap Rock Quarry in Delaware Township, Hunterdon County, New Jersey. It remains an active quarry, with expansion plans in the direction of the proposed pipeline path. We have repeatedly submitted this information and the applicant has repeatedly chosen to ignore it.

**2. Comment:** Page ES-4 states: “PennEast would minimize soil compaction and rutting, erosion, impacts on prime farmland and drainage tiles and increase revegetation potential by following its E&SCP and FERC’s Upland Erosion Control, Revegetation, and Maintenance Plan (Plan) and Wetland and Waterbody Construction and Mitigation Procedures (Procedures)”

- The only way to “minimize impacts on prime soil” is to avoid them altogether. Almost 50% of the soils along the proposed pipeline are considered prime soils. It is not a surprise that the pipeline would impact those soils because the pipeline threatens many preserved farms and these farms were selected for preservation because they have prime soils. Delaware Township’s master plan goal is to preserve 100% of all prime farm soils because once damaged they cannot be replaced.

**3. Comment:** Page ES-4 Geology states: "We conclude that the project would not have significant impacts on geologic resources." It also says, “In addition, with the implementation of PennEast’s proposed mitigation measures as well as its Blasting Plan, Karst Mitigation Plan, and E&SCP, and our recommendations, the geologic risk to Project facilities would be minimized.”

However, later in the Draft EIS, FERC recommends that Penn East file its Karst Mitigation Plan.

- Since there is no Karst Mitigation Plan on file, and since it is recommended but not required that PennEast provide such a plan, how can FERC conclude that the plan will be acceptable and impacts will be minimal? Why and how has FERC reached this conclusion in advance of, and in the absence of, data or documentation? This is inconsistent with NEPA standards and FERC’s own regulations.

**4. Comment:** Page 4-32 states, “Because surveys along the Project route are not yet complete, we are recommending that, prior to construction, PennEast provide a revised list of water wells and springs within 150 feet of any construction workspace (500 feet in areas characterized by Karst terrain) based on completed surveys. PennEast has prepared a Well Monitoring Plan to outline procedures for pre- and post- construction monitoring of all identified drinking water

supply wells, including private, community, municipal/public wells, and springs, within 150 feet of the proposed construction workspace (500 feet in areas characterized by Karst terrain).”

- After almost two years of work, all of the resources and the billions of dollars to be spent on this pipeline, PennEast should have been able to identify the location of all public and private well given publicly available information.

How can FERC accept the lack of information on an issue of such extreme importance to our residents—possible impacts to our wells? FERC is only recommending (again, not requiring) that PennEast monitor our drinking water wells during construction because PennEast does not know what the impact is going to be. How can FERC make a decision that there is no impact to drinking water supplies when to date, no effort has been made to identify the wells within the vicinity of, and that may be affected by, the proposed pipeline?

**5. Comment:** Damage to private wells may render homes unlivable and unsaleable. If PennEast does not know what the impacts will be to private wells, despite the public sources of information that are available, they have no right to advance through this process and FERC has no obligation to allow them to proceed. It is not acceptable to require monitoring of wells after the fact because by then the damage will have been done. The residents are not interested in mitigation of impacts after their water supply has been contaminated by arsenic, or eliminated altogether when their wells are destroyed or the source of water is removed.

**6. Comment:** The DEIS is full of errors. Is there any threshold of errors that would have led FERC to conclude that this project should not advance at this time and the DEIS be redone? If FERC finds the DEIS acceptable in this condition, it suggests that it didn't matter what was provided to the public or FERC.

- The sequence of Mile Markers in the DEIS is not correct.
- The pipe size and ROW width on the maps is not correct.

**7. Comment:** In the DEIS Volume II (around page 154—there are no page numbers on the document) discussion of areas where the route crosses Special Flood Hazard Areas, it references two tables, Table 2.3-6 and Table 2.3.6. Whether these are the same table, or two different tables matters not since neither table appears in the DEIS. Where are they and when will the public get to review them?

**8. Comment:** In ES-12, Socioeconomics, the following statement is made,” Operation of the project would have a minor to moderate positive effect on the local government’s tax revenues due to the increase in property taxes that would be collected from PennEast.”

- We find this statement to be inaccurate and misleading, based on the facts discussed below.

On page 4-170, Table 4.8.9-3, the table shows that Delaware Township would collect \$583,000 over a five year period. It is unclear how this calculation was made. The Tax Assessor of Delaware Township was asked to calculate how much Delaware Township would assess PennEast for the proposed pipeline. She calculated that the Township would reap a grand total of \$49,000 per year from the pipeline. Further, this does not include the reduction in taxes that may occur as individual property owners request a reassessment in their property taxes because they no longer control the portion of their property taken for a PennEast easement.

Our community has spent several million dollars to preserve open space that would be taken and permanently damaged by the proposed pipeline. Receiving \$49,000 a year is therefore a negative impact to our local government. Further, since the PennEast estimation of Delaware Township's projects tax receipt is a totally inaccurate, so likely are the rest of the numbers contained in the table. Therefore, the appropriate conclusion is that PennEast cannot assure that our local governments will not suffer a negative tax impact if this pipeline is approved.

**9. Comment:** FERC has 54 "recommendations" for PennEast to further this project. We strongly believe that 24 of those recommendations address issues of critical importance that should be provided, assessed and considered before a decision is made regarding the environmental impacts of the proposed pipeline. These are not minor pre-construction requirements but rather issues of substance that should be considered in advance of any conclusions regarding the impact of the proposed pipeline. Those are FERC recommendations numbered 6,8,9,14, 16, 19 through 22, 24 through 26, 29, 30, 32 through 34, 39 through 41, 43, 45, 47, and 48.

In the interim, while FERC awaits the submittal of this information, the Draft Environmental Impact Statement should be withdrawn so that all information is provided to the public and to FERC for review and consideration before a decision is made regarding the environmental impact from the proposed pipeline.

**10. Comment:** The proposed PennEast pipeline is a real project—it is not a paperwork exercise. The Draft Environmental Impact statement is generic, written like it was taken off the shelf with a little "search and replace," and "fill in the blanks" to make it applicable to this project. The proposed project would have real, on-the-ground impacts to people's lives, security, homes and livelihoods. The public deserves a complete and accurate environmental impact statement, based on actual data, and a thoughtful evaluation and consideration by FERC. To date, that has not occurred. Therefore, the DEIS should be withdrawn and resubmitted when it accurately describes and addresses the project it purports to evaluate.

**11. Comment:** The DEIS uses vague and undefined language when discussing the impact of the proposed pipeline on our soils.

The term crossed by is used frequently, but is not defined. The term is not appropriate to describe what is being proposed in some circumstances. For example, in section 4.12.4.4 , the

phrase “areas crossed by the pipeline” is first employed to describe impacts to vegetation in the permanent Right of Way. It is an appropriate term to use for this purpose, but is not appropriate for use when soils or rock are excavated. The construction of the pipeline will require excavation by heavy equipment and excavation of soil bedrock and will ultimately underlie the “temporarily disturbed” soils. Therefore, the impact is not the crossing of the soil, but is the excavation of the soil.

The term temporarily impacted is used frequently, but is not defined. Any soil impacted should be described at some level of detail. This EIS document never makes that clear; there is no mention of the change in percentage of organic material, the level are soil aeration, etc. This is a particular concern when the soils are Prime Agricultural soils, since they may be particularly valuable for agriculture or forestry.

**12. Comment:** Prime agricultural soils (Table 4.2.2.1) constitute 528.8 acres, nearly 50% of area disturbed. Since they are prime agricultural soils, they are of special importance for agriculture and are particularly valuable to land owners.

The DEIS fails to describe how these soils can be mitigated to their pre-disturbance condition, including the the original bulk density and composition.

In addition to providing a detailed plan for mitigation, the DEIS must also contain a discussion of how the activity will account for effects of impermeable pipe ultimately occupying the soil horizon (hint: impermeable pipe will displace permeable rock).

Finally, a set of figures should be attached that shows the typical vertical profile, drawn to scale, for every soil series that will be impacted by the pipeline.

**13. Comment:** Section 4.7.5.4 Land Conservation Programs concludes with the following recommendation:

Prior to the end of the draft EIS comment period, PennEast should file with the Secretary documentation of USDA approval for construction and operation of the Project within any and all parcels affected that have active USDA conservation easements. Alternatively, PennEast should identify any Project changes made to avoid parcels with USDA conservation easements, and include documentation of consultation with the USDA that confirms avoidance of USDA conservation easements.

As of September 9, 2016, Delaware Township had not received said documentation. FERC should extend the comment period by 30 days, after this documentation is filed and provided to all impacted parties, to all for a thorough review.

Honorable Norman C. Bay, Chair

August 16, 2016

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***Conclusion***

Issuing the draft DEIS without information obtainable and relevant is inappropriate and inconsistent with NEPA. Delaware Township, therefore, requests FERC withdraw the DEIS and await the completion of all obtainable and relevant evaluations prior to republishing the DEIS.

Thank you.

Sincerely,



Susan Lockwood, Mayor

C: Delaware Township Committee  
US Senator Robert Menendez  
US Senator Cory Booker  
US Congressman Leonard Lance  
NJ Senator Christopher "Kip" Bateman  
NJ Assemblyman Jack Ciattarelli  
NJ Assemblyman Andrew Zwicker  
Hunterdon County Board of Chosen Freeholders  
Robert Martin, NJDEP Commissioner  
John Gray, NJDEP Deputy Chief of Staff