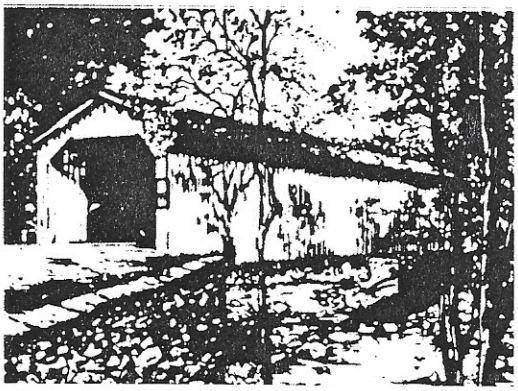

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Hunterdon County, New Jersey

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Honorable Norman C. Bay, Chair
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

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 but fails to address New Jersey flooding and water quality impacts.

New Jersey periodically experiences severe flood events due to its climate, topography, and location along the Atlantic seaboard. Given the State's dense population and extensive level of existing development within flood hazard areas, this periodic flooding causes severe, repetitive, and deleterious social, economic, and environmental impacts. Flooding has and continues to be the most frequent, destructive, and costly natural hazard in New Jersey and is responsible for the large majority of disaster-related damage reported in the State.

On January 30, 2015, the President issued a directive regarding the implementation of Executive Order 11988 (EO), establishing a federal flood risk management standard in order to improve the nation's resilience to current and future flood risk. The EO requires federal agencies to "'provide leadership and take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by flood plains' in carrying out its responsibilities for the following actions:

- acquiring, managing, and disposing of federal lands and facilities;
- providing federally-undertaken, financed, or assisted construction and improvements;
- conducting **federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation**, and licensing activities." https://www.fema.gov/executive-order-11988-floodplain-management

Because the Federal Energy Regulatory Commission (FERC) is a federal agency tasked with the regulation of the proposed PennEast pipeline, it is required to uphold the provisions of the EO. As outlined in detail below, the construction and maintenance of the proposed PennEast Pipeline is likely to result in long-term increases in flooding and impacts to water quality along the pipeline route in New Jersey. The DEIS failed to adequately address the following anticipated impacts.

Anticipated Adverse Impacts

1. *The proposed pipeline is likely to significantly increase the volume and rate of runoff reaching the affected streams and downstream waterbodies*

   The proposed project would result in the destruction of hundreds of acres of trees and other vegetation, which is likely to lead to greater volumes of runoff and reduce groundwater recharge volumes within the affected watersheds. In fact, it is estimated that the destruction of vegetation within the path of the pipeline will result in millions of gallons of extra runoff reaching affected waterways each year. For example, each additional inch of runoff resulting from the minimum expected 120 acres of land being disturbed would result in an additional 3.3 million gallons of runoff.

   Notwithstanding the large volume of runoff expected to be generated by the project, no stormwater management plan is being offered to attenuate the additional runoff and pollutant loading from the permanent loss of vegetation along the pipeline right-of-way and subsequent perpetual maintenance that will occur. Furthermore, the additional runoff is likely to increase erosion within affected waterways and require State and local governments to expend additional funds to counteract destabilization of surface waters and the subsequent removal of sediment and debris that is likely to occur as a result.

   Additionally, increased runoff volumes are likely to exacerbate flooding in New Jersey communities along the pipeline route, which have already seen some of the worst flooding events on record in the past decade.

   Given the above, any analysis of proposed routes should take into account potential flooding impacts resulting from the significantly increased volume of stormwater runoff that is anticipated due to the construction and maintenance of the proposed pipeline.

2. *The proposed pipeline is likely to significantly impair water quality within the watersheds surrounding the proposed route*

The currently proposed pipeline route crosses 86 streams in New Jersey, in some cases crossing single streams multiple times. Further, many of the streams proposed to be crossed are classified as Category One waters and discharge directly into the Delaware & Raritan Canal, which serves as a drinking water source for approximately 1.5 million people, representing approximately 17 percent of New Jersey's 8.9 million residents. PennEast is currently proposing to construct its pipeline by cutting open trenches through many of the watercourses that it crosses. The construction of an open trench across the bed and banks of a watercourse is detrimental to stream health in that it destabilizes the stream channel, results in sedimentation within the watercourse, and destroys aquatic habitat within the channel.

Further, the construction of this large number of stream crossings to build and serve the proposed pipeline is likely to result in the destruction of a significant area of near-stream vegetation. It is estimated that each proposed stream crossing would result in the removal of between 10,000 and 60,000 square feet of vegetation, depending on the slope of the banks, the width of the NJ regulated riparian zone, the width of the area to be cleared for construction, and the particular construction methodology being utilized. Additionally, many of these stream corridors are currently forested and will not be replanted with trees within the pipeline right-of-way after construction is completed.

Ample research has shown that vegetation adjacent to surface waters provides a variety of significant beneficial functions, including flood attenuation, increased groundwater recharge and bank stabilization, removal of sediment, nutrients, and other pollutants from stormwater runoff, reduction in the rate and volume of stormwater runoff, moderation of water temperatures, and habitat and food sources to a wide variety of aquatic and terrestrial species.

Research has also shown that the indiscriminant destruction of near-stream vegetation leads to a variety of adverse environmental impacts, including increased sediment load and pollutant levels in surface waters and lower dissolved oxygen content, resulting in adverse impacts to fishery resources and other aquatic biota by destroying benthic habitat, disrupting reproduction cycles, and impacting the ability of organisms to feed. The removal of near-stream vegetation additionally destabilizes the channels and banks of surface waters, which leads to increased erosion and sedimentation that exacerbates the intensity and frequency of flooding.

Given the excessive loss of near-stream vegetation and disturbance to numerous stream channels for the construction of the proposed pipeline and continued maintenance of its right-of-way, the proposed project is likely to significantly increase the sediment load and pollutant level and lower the dissolved oxygen content of water within the affected streams and downstream water bodies.

Additionally, many of the watercourses containing higher sediment and pollutant levels will discharge to the D&R Canal and could directly impact and degrade the primary drinking water source for 17 percent of New Jersey's residents and result in increased costs for water treatment, greater amounts of sludge and other residuals that must be properly disposed of, and other associated increases in the cost of potable water production.

3. *The proposed pipeline does not comply with State and Federal regulations regarding the protection of riparian zone vegetation*

The DEIS states that, "Riparian buffers within New Jersey would be protected in accordance with Flood Hazard Area Control Act Rules (N.J.A.C. 7.13-10.2) and permit conditions. The protection of vegetated buffers around waterbodies, in accordance with state regulations, would help to minimize impacts on aquatic biological resources by preserving water quality and reducing potential for streambank erosion and increased sedimentation as well as turbidity in the water column." (DEIS p. 4-62)

New Jersey's Flood Hazard Area Control Act rules at N.J.A.C. 7:13-11.2 set forth stringent standards designed to prevent the indiscriminant removal of vegetation along surface waters. Specifically, N.J.A.C. 7:13-11.2(b) requires that applicants seeking an individual permit for activities that would result in clearing, cutting, and/or removal of riparian zone vegetation must demonstrate to NJDEP that the "basic purpose of the regulated activity or project cannot be accomplished onsite without clearing, cutting, and/or removal of vegetation in the riparian zone" and that such disturbance is minimized through methods including "situating the regulated activity or project as far from any regulated water as feasible" and "limiting construction to actively disturbed areas and/or areas wherein the benefits and functions of a riparian zone are considerably deteriorated and impaired as a result of previous development." Nevertheless the proposed pipeline corridor crosses numerous streams and would result in extraordinary adverse impacts to New Jersey's waterways. PennEast has not demonstrated that the proposed pipeline route results in the minimum possible disturbance to riparian zone vegetation, as required by N.J.A.C. 7:13-11.2. Further, N.J.A.C. 7:13-12.8(c) provides that NJDEP shall "issue an individual permit to construct or reconstruct a utility line across or under a channel or water only if the following requirements are satisfied, as applicable:

1. The applicant demonstrates that it is not feasible to directionally drill or "jack" the proposed utility line under the channel or water under permit-by-rule 36 at N.J.A.C. 7:13-7.36;

2. The applicant demonstrates that it is not feasible to construct the utility line within a roadway that already crosses the channel or water under permit-by-rule 37 at N.J.A.C. 7:13-7.37;

3. The applicant demonstrates that it is not feasible to attach the utility line to a bridge that already crosses the channel or water under permit-by-rule 38 at N.J.A.C. 7:13-7.38."

PennEast has not demonstrated that these alternative methods of pipeline construction, which would clearly reduce or eliminate riparian zone disturbance, are infeasible to pursue. Therefore, the proposed pipeline route inappropriately results in clearing, cutting, and/or removal of riparian zone vegetation, which is essential for maintaining bank integrity, flood attenuation, temperature moderation, and surface water quality.

Finally, it should be noted that the Flood Hazard Area Control Act rules derive authority from several State statutes including the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. (see N.J.A.C. 7:13-1.1(b)) which assumes authority from the Federal Clean Water Act. As such, the proposed pipeline corridor violates Federal law.

4. *The true cost of the pipeline is not being adequately considered.*

The cost of constructing the proposed pipeline should include not only short-term construction and land acquisition costs, but costs associated with environmental impairment and degradation of water quality, additional funds needed for elevated treatment of sediment-laden and polluted waters for drinking water supply, costs associated with additional flooding in already flood-prone communities, the potential loss and/or reduction of recreational opportunities, and possibly irreparable damage to natural, cultural, and historic features along the pipeline route. It is likely that, when all costs associated with the construction of the pipeline are appropriately evaluated, the adverse impacts associated with its construction will be found to greatly outweigh any regional economic benefits that could potentially be provided by undertaking the project.

Conclusion

In failing to adequately quantify and address the anticipated impacts to flooding and water quality in New Jersey associated with the construction of the proposed PennEast pipeline, FERC has failed to comply with Executive Order 11988, and the project as proposed is not in compliance with State and Federal law.

Thank you.

Sincerely,

Susan D. Lockwood

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