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VIA ELECTRONIC FILING

Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426
Attention: Kimberly D. Bose, Secretary

Re: Proposed PennEast Pipeline Project
FERC Docket No. CP15-558-000

Dear Secretary Bose:

We are writing on behalf of New Jersey Conservation Foundation and Stony Brook Millstone Watershed Association to request that the Federal Energy Regulatory Commission (“FERC”) suspend its review of the above-referenced application. To date, FERC has received numerous substantive comments from both federal and state agencies regarding this proposed project. Many of those agencies documented their concerns regarding the lack of data and analyses in the PennEast DEIS, and noted that the existing record fails to provide a rational basis for the critical determinations that NEPA requires FERC to make.¹ PennEast’s post-comment period submission of a new route demonstrates not that it is responding to substantial scientific and public comments, but rather that it failed to assess adequately environmental impacts from the outset. PennEast has not submitted any more credible scientific data, studies, surveys or assessments to substantiate impacts from its new route than it presented with its last preferred alternative, delineated in the July 22, 2016 DEIS.²

Importantly, none of the submissions comprising PennEast’s hastily conceived “new route” address the significant outstanding concerns regarding the DEIS’s lack of analysis or data regarding the need for the proposed PennEast project. While the new route fulfills the applicant’s private project purpose, the question of public need remains unanswered. Intervenor understand that FERC will consider separately the need for the PennEast project in accordance

¹ See, e.g., Letter from EPA to FERC, dated September 12, 2016, FERC Docket CP15-558, Accession # 20160916-0013 (rating the PennEast DEIS EO-2, due to “lack of potentially important information for the decision maker”).

² See, e.g., Letter from NJDEP to FERC, dated September 12, 2016, FERC Docket CP15-558, Accession # 20160919-0014 (“FERC does not possess enough site-specific technical information to issue a final EIS.”); Letter from USFWS to FERC, dated September 12, 2016, FERC Docket CP15-558, Accession # 20160913-5213 (DEIS cannot serve as a Biological Assessment and surveys should be completed prior to FERC finalizing the EIS).

with the threshold economic question under the Natural Gas Act – but that inquiry is independent of FERC’s duties under NEPA to assess project need.

The environmental record remains woefully inadequate with respect to: (1) project need as distinct from applicant purpose; (2) examination of system alternatives; (3) reasoned examination of route alternatives; (4) project impacts; (5) impacts from system and route alternatives (including the newly proposed route); and (6) cumulative impacts. FERC should not permit a rolling application process that seeks to circumvent NEPA’s mandated “hard look.” Nor should PennEast’s new route proposal be considered a substitute for substantive analysis or an adequate response to public comment that would allow this application to proceed to FEIS.

For example, that PennEast proposes to route the project around one documented long-tailed salamander habitat does not excuse its failure to properly identify the habitat in the DEIS. PennEast ignores the underlying problem: inadequate data sets, surveys and analyses.³ Moreover, the limited rerouting fails to address all the other documented occurrences of long-tailed salamanders along the extant route included in the record by members of the public who have been forced to carry PennEast’s burden of establishing an environmental baseline. Nor does it remedy the data gaps from all the crossings still unsurveyed in a geographically comprehensive scientific study.⁴ Finally, it only serves to highlight the still-unenumerated significant adverse impacts to threatened and endangered species that would result from certificating the project as proposed: habitats would be destroyed for a project built to suit private needs.

Intervenors request that FERC reject PennEast’s application and require PennEast to submit an application that meets FERC’s minimum environmental guidance regulations. By following its own regulations, FERC would finally require PennEast to produce data responsive to federal and state concerns regarding this project – the absence of which required FERC to reject the application from the outset. The consortium’s newly submitted alternative fails to address the ongoing underlying flaws that have been exposed in the DEIS both prior to and during the public comment process, including: (1) significant new data provided by agencies and commenters

³ As noted in Intervenors’ Additional Comments on FERC’s July 2016 DEIS for the PennEast Pipeline Project at 20, FERC Docket CP15-558, Accession # 20160912-6009, the overwhelming majority of these data are available and were simply ignored.

⁴ Although PennEast now proposes to implement HDD at four additional environmentally sensitive crossings along the New Jersey portion of its preferred alternative route, this change in crossing method adds no additional geological or species data and analysis into the record. As such, it is impossible to evaluate what existing threatened and endangered species are using these habitats, and whether these reaches could, in fact, be successfully crossed by the HDD method -- much less what impacts would be caused by either potential crossing method. Without a baseline or impacts analysis, this new submission adds no more clarity to FERC’s decision making. Public comments documenting extant endangered or threatened species at these crossings cannot substitute for full species surveys and inventories following USFWS and NJDEP protocols at all impacted locations. FERC cannot allow PennEast to shift the burden of creating an environmental baseline onto the public’s shoulders, and must require PennEast to document existing conditions at all crossings. Site-specific information is a prerequisite, and merely shifting to proposed HDD crossings without geotechnical data fails to remedy either this flaw, nor the vast majority of remaining C-1 open-trench crossing impacts. *See, e.g.*, Letter from USDOJ to FERC, dated September 20, 2016, FERC Docket CP15-558, Accession # 20160920-5145 (arsenic concentration increases from all potential constructions methods should be analyzed in a revised DEIS).

affecting FERC's need inquiry; (2) environmental impacts data, such as inadequate arsenic impact assessments and geological risk assessments that ought to have been provided from the outset to form a complete application; and (3) procedural issues, such as failure to provide public meetings and extended comments period to address these concerns.

PennEast's latest submission confirms the DEIS's inadequacies, which were catalogued in detail by public and agency comments. FERC should reject the application and require PennEast resubmit it once they have meet all of the requirements for submission. At the very least, FERC should suspend its review of the application until such time as PennEast submits all of the missing data, engineering and other missing information. Only after PennEast has meet the outstanding requirements should FERC revise the DEIS and reissue it so that the public and decision makers may take the "hard look" necessary under NEPA.

Respectfully submitted,



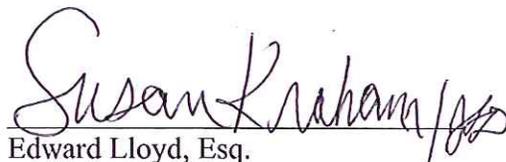
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