

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PennEast Pipeline Company, LLC

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Docket No. CP15-558-000
PF15-1-000

MOTION FOR LEAVE TO INTERVENE

I. Communications and Service

All communications, pleadings and orders relating to this proceeding should be sent to the following:

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II. Interest of Petitioner

Movant is the Township of Hopewell, a municipal corporation of the State of New Jersey located in Mercer County. The proposed PennEast Pipeline would traverse 9.62 linear miles of Hopewell Township and would terminate in Hopewell Township at PennEast's proposed connection with the Transco Pipeline.

Hopewell Township has standing to intervene because it is directly affected by the proposed pipeline. Specifically, the pipeline is proposed to cross Hopewell Township-owned lots located at Tax Block 85, Lots 3 and 8; Tax Block 91, Lot 3.12; and Tax Block 92, Lots 2.02, 5 and 9.

One of those lots, Block 85 Lot 3, known as the “Zaitz Tract,” was purchased by Hopewell Township for the express purpose of providing affordable housing, as required by the mandate of the New Jersey State Constitution and decisions of the New Jersey Supreme Court that the municipality must provide its fair share of the regional need for low and moderate income housing. *See, e.g.*, the New Jersey Supreme Court decision, *In re N.J.A.C. 5:96 & 5:97*, 221 N.J. 1 (2015).

The Zaitz Tract is integral to Hopewell Township’s Affordable Housing Plan, which itself is currently subject to the jurisdiction of the Superior Court of New Jersey in the litigation titled, *In the Matter of the Application of the Township of Hopewell*, Docket Number MER-L-1557-15. The proposed gas pipeline would bisect the Zaitz tract and cause irreparable harm to Hopewell Township’s ability to provide its constitutionally-required fair share of affordable housing.

A second Township-owned lot that the pipeline would traverse, Block 92, Lot 9, known as the “Alliger Tract,” is preserved parkland. This park was preserved with open-space trust funds and is now the site of the Township’s Veterans’ and 9-11 Memorials.

A third Township-owned lot that the pipeline would traverse, Block 91, Lot 3.12, was created for the sole purpose of providing a location for a fire station-rescue squad. Architectural plans have been prepared for this station and if the pipeline is allowed to cross the lot the Township will have to abandon the location and find a new site for the fire station. The need for this fire station is driven by the Merrill Lynch development and the station site must remain on the Merrill Campus.

Hopewell Township also has standing to intervene because the pipeline would adversely affect crucial natural resources relied upon by Township residents. Hopewell Township has

limited water resources. As recognized by the United States Environmental Protection agency and the New Jersey Department of Environmental Protection, Hopewell Township is underlain by “sole source aquifers,” such that groundwater provides the primary source of drinking water for residents of the Township. Impacts to groundwater harm those water resources. This limitation has served as the basis for the Land Use Element of the Township’s Master Plan and for its zoning, which was upheld by the New Jersey Superior Court, Appellate Division in the litigation captioned *Greenwood v. Mayor & Twp. Comm. of Hopewell*, 2008 N.J. Super. Unpub. LEXIS 275 (App.Div. Aug. 14, 2008). Those limited groundwater resources are declining and require protection.

The Hopewell Township Board of Health was sufficiently concerned about the potential adverse effects of the pipeline on water resources and on the general health of local residents that it held a public hearing, on the record, on July 28, 2015. Nine experts and five individuals testified under oath. Experts who testified included:

- Matthew Mulhall, professional geologist, who testified about the Township’s limited and strained water resources. He testified that the pipeline would cross the Hopewell Fault, an important regional water resource, and that it would introduce contaminants to the groundwater and serve as a conduit for groundwater to migrate out of the watershed.
- Michael Pisauro, J.D., who testified that the pipeline would cut through multiple Category 1 streams and waterways in Hopewell Township, compromising the regulatory scheme that is designed to protect the Township’s groundwater and surface water from contamination, thereby adversely affecting the Township’s drinking water.
- Dr. Tullis Onstott, Ph.D., who testified that construction and operation of the pipeline will cause arsenic contamination in the groundwater.
- Dr. Michael Trachtenberg, Ph.D., who testified that chemical releases from the pipeline will adversely affect the physical health of residents of Hopewell Township.
- Dr. Michael Brogan, Ph.D., who testified that the pipeline posed a significant risk to the residents of Hopewell Township resulting from any unintentional release of gas.

- Dr. Scott Donofrio, M.D., who testified that Hopewell Township residents would be exposed to an increased risk of mental illness as a result of the pipeline operations in the Township.
- Dr. Lisa Dobruskin, M.D., who testified that chemical releases from the pipeline would adversely affect the physical health of residents of Hopewell Township.
- Katherine Dresdner, J.D., who testified that PennEast had an inadequate safety record to justify construction and operation of the pipeline.
- Paul Pogorzelski, P.E., who offered a report prepared by Frank Chippetta, of Blasting Analysis International, describing blasting safety measures that PennEast would have to comply with to minimize risk to residents from PennEast's blasting operations.

PennEast chose not to send any representative to the hearing. Following presentation of the testimony, the Board of Health adopted a Resolution declaring, among other things, that:

The proposed PennEast natural gas pipeline will pose an unreasonable and significant risk to the health and safety of the citizens of Hopewell Township, as a result of, among other things, potential groundwater and surface water contamination, air quality degradation, blasting risk, increased risk of mental health illness, and increased risk of physical illness. [Hopewell Township Board of Health Resolution 2015-2]

Hopewell Township also has standing to intervene because the proposed pipeline route will directly affect land in the community that has been preserved as open space or agricultural property with taxpayer funds.

Finally, but without limitation, Hopewell Township has an interest in enforcing local ordinances designed to protect its water supply and natural resources. These ordinances include, but are not limited to,

- Steep slope protection ordinance: PennEast pipeline activities will modify the natural slope system in a variety of ways and will promote instability by loading the slope, removing vital support, and increasing pore-water pressures.
- Forestry management and tree removal ordinances: PennEast pipeline construction will result in the removal of significant forestland and mature trees that will require mitigation pursuant to the Township's tree removal ordinance.

- Stream corridor protection ordinances: PennEast construction will bisect protected streams, leading to adverse impacts on associated flora and fauna, floodplains and the quality and quantity of the Township's water supply.

As a municipal corporation that is directly affected by the PennEast application, it is manifestly in the public interest that Hopewell Township takes part in these proceedings as a full participant.

III. Conclusion

For the foregoing reasons, the Township of Hopewell respectfully requests that the Commission grant its Motion to intervene as a party with full rights to participate in all further proceedings.

Respectfully submitted,

s/ Steven P. Goodell

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Dated: October 8, 2015

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