

**UNITED STATES OF AMERICA BEFORE THE FEDERAL ENERGY REGULATORY
COMMISSION**

PennEast Pipeline Company, LLC)
(Project)

Docket No. CP15-558-000 PennEast Pipeline

MOTION TO INTERVENE OF SIERRA CLUB NEW JERSEY CHAPTER

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.212 and 385.214 (2007), the New Jersey Sierra Club files this motion to intervene in this proceeding.

On September 24, 2015, the PennEast Pipeline Company, LLC ("PennEast") filed its application under § 7 of the Natural Gas Act, 15 U.S.C. § 717f, and § 157 of FERC's regulations, 18 C.F.R. § 157.1 et seq., for the proposed PennEast Project ("Project"), FERC Docket No. CP15-558-000. PennEast states that the proposed Project is a new greenfield 118 mile long pipeline project. While Intervenor comments have included several substantive comments in this motion, Intervenor comments also intend to submit more extensive substantive comments at a later date.

I. COMMUNICATION AND CORRESPONDENCE

All communications, pleadings, and orders with respect to this proceeding should be sent to the following individual:

Jeff Tittel, Director of the New Jersey Sierra Club, 145 West Hanover St. Trenton, New Jersey 08618, jeff.tittel@sierraclub.org; (609)-656-7612

II. INTERVENORS

The Sierra Club is a non-profit organization formed in 1892 with 65 chapters and over 750,000 members nationwide. We are the nation's oldest and largest environmental group. Sierra Club—New Jersey is the state chapter of New Jersey's mission is to explore, enjoy and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. The chapter has over 20,000 members who hold monthly meetings throughout the state. We have 60,000 members and supporters, many who live along the route and would be impacted. Sierra Club-New Jersey has over 550 members in Hunterdon County, and 450 members in Mercer County. The Director of the New Jersey Chapter also resides in Lambertville, New Jersey near the proposed route.

III. GROUNDS FOR INTERVENTION

The New Jersey chapter of the Sierra Club is extremely concerned about this application. Members of our organization and the constituents that we serve live in the areas that will be directly impacted by the project. The pipeline and its associated facilities will cut through two counties in New Jersey and across a vital River serving over 15 million people. On behalf of our

members, we raise environmental, public health, and safety concerns with this project along the project right of way, in the impacted communities, and across the state of New Jersey.

The PennEast pipeline will have devastating environmental impacts, cutting a scar through environmentally sensitive land and open spaces. This pipeline will promote fracking, add to air pollution, and safety concerns to the surrounding communities. The pipeline route cuts through areas that are environmentally sensitive including open space, historic sites, including sites during the Revolutionary War, and parkland. All together this pipeline will be cutting through 39 parks, 88 waterways, including the Delaware River, which supplies the drinking water for over 15 million people, as well as cuts through 44 wetlands, and 33 farms and other open space areas. The pipeline would cut next to Swan Creek Reservoir and over Goat Hill, Washington's Crossing State Park, D & R Canal State Park, and Baldpate Mountain. The New Jersey Sierra Club worked for a long time to save Baldpate Mountain and Goat Hill. We also developed the plan for Baldpate Mountain to develop its natural features and a pipeline would diminish the protections we helped put in place.

This pipeline violates the Clean Water Act Also and cannot meet the requirement for a 401 water quality permit. We also believe that it violates the 404 section of the Clean Water Act and cannot meet the criteria for 404 permits. The reason is because of the amount of high quality streams, wetlands, and rivers it is crossing through. The route will cut areas with steep slopes having a bigger impact on streams because of siltation and runoff. The pipeline route will be crossing where the streams are wider than they were before, having a greater impact on streams and flood plains. Many of these streams are C-1, meaning it will be impacting some of the highest water quality waterways in the state. We are seriously concerned that the pipeline crosses New Jersey's C-1 designated waters and associated wetlands and habitats. Many of these streams carry anti-degradation criteria.

The New Jersey Sierra Club was instrumental in expanding the protection for the most high quality waterways designated as C-1. We helped upgrade many of the Delaware River tributaries to category 1 status that says there shall be no measurable and calculable change in water quality. In addition, we also helped initiate important policies to protect stream buffers including the regulation to avoid development within 300 ft. to limit pollution. This pipeline goes against those protections that we helped put in place, especially anti-degradation criteria. Additionally, we believe that FERC has also developed an *ultra vires* practice of issuing its Certificate prior to states issuing Section 401 Water Quality Certifications; such action is expressly prohibited by the Clean Water Act. To the extent FERC continues this practice, we believe they will be in violation of the law. We also believe that Tetra Tech, a company that is responsible for preparing the Environmental Impact Statement for FERC has a conflict of interest as a member of the Marcellus Shale Coalition.

We are concerned that there are significant air quality impacts that have not been addressed regarding the pipeline and pumping stations. As such, we do not believe the pipeline would meet the criteria for air quality permits.

This pipeline is going through historic areas and past historic sites, including homes dating back to the Revolutionary War period. The pipeline would cut through scenic areas and

impacting tourism and the arts. Upper Delaware River is a federally designated “Scenic and Recreational River” administered by the National Park Service. The National Wild and Scenic Rivers System also includes large portions of the Lower Delaware and the Delaware Water Gap. The New Jersey Sierra Club was involved in the designation of Wild and Scenic areas on both sides of the Delaware River and the pipeline would threaten that designation and related tourism. The tourism industry in the Delaware Valley is worth billions of dollars, impacting communities like Lambertville and Frenchtown.

The Lower, Middle, and Upper Delaware River have high water quality and are subject to Delaware River Basin Commission Special Protection Waters Designation. The New Jersey Sierra Club were very much involved in advocating for the Special Protection Waters designation of these waters with the DRBC. We believe that the pipeline violates those protections under the anti-degradation criteria. The Basin and River are home to a number of federal and state listed endangered or threatened species including, but not limited to, the dwarf wedge mussel, Indiana bat, bog turtle, Atlantic Sturgeon, Shortnose sturgeon, loggerhead and Kemp’s ridley sea turtles, and Northeastern bulrush. Over 200 species of migratory birds have been identified within the drainage area of the Upper Delaware River within the Basin, including the largest wintering population of bald eagles within the Northeastern United States. The federally endangered Shortnose Sturgeon migrate into the Lower Delaware River to spawn. The ecologically, recreationally and economically important American Shad population migrates up through the non-tidal portions of the Delaware River to spawn, American Shad populations in the Delaware River are currently at depressed numbers. Migratory birds breed in or migrate through the high quality riparian corridors of the Basin. The Delaware River and Delaware Bay are also home to dozens of species of commercially and recreationally important fish and shellfish species.

For more than 50 years, state local and even the federal government have put in place; laws, policies and programs to protect the Delaware Valley. State laws include the Highlands Act, State Planning Act, Wetlands Act, and millions of dollars for open space. In addition, more than half of the pipeline route is going through public open space. This is land paid for by the tax payers and held in the public trust.

We are also concerned that FERC has not looked at the impacts under federal laws like Delaware Basin Commission Compact, the Delaware River Wild and Scenic National Park Service designation, Clean Air Act, Safe Drinking Water Act, Endangered Species Act, Historic Preservation Laws, which would be violated if this pipeline was put forth.

Furthermore, the New Jersey Sierra Club is particularly concerned that a full Environmental Impact Statement (“EIS”) under the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4231-4347, that includes cumulative impacts has not been undertaken for this project. The proposed project constitutes a major Federal action significantly affecting the environment within the meaning of NEPA. As such, FERC must compile a full EIS for this project. The project may impact geologic resources, air quality, viewsheds, soundscapes, as well as water quality, vegetation, and wildlife among others. We believe in FERC’s review, cumulative impacts like water pollution, cutting down forests, additional runoff and siltation as

well as impact to cold water fisheries, endangered species, and category 1 streams will not be properly assessed.

IV. CONCLUSION

For the reasons set forth above, the New Jersey Sierra Club respectfully request that this Motion to Intervene be granted and that they be permitted to participate, with the full rights of a party, in the above-captioned proceeding before FERC.

Sincerely,

Jeff Tittel and the New Jersey Sierra Club