

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION
PennEast Pipeline Company, LLC) Docket No. CP15-558-000
PennEast Project)**

MOTION FOR LEAVE TO INTERVENE

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 Stony Brook-Millstone Watershed Association ("SBMWA") 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. FERC issued its Notice of Application for the project on October 8, 2015. PennEast states that the proposed Project is a greenfield route for a brand new pipeline system under which PennEast will provide 1 billion cubic feet per day (Bcf/day) of firm transportation service from certain supply interconnections in the eastern Marcellus region, including interconnections with Transcontinental Gas Pipeline Company, LLC. and others in Luzerne County, Pennsylvania to Hopewell Township, New Jersey where it will connect to Transcontinental's Mainline.

I. COMMUNICATIONS AND SERVICE

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

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II. REQUEST FOR FORMAL HEARING

Pursuant to the Natural Gas Act regulations, 18 C.F.R. § 157.10(a)(1), Movant respectfully requests a formal hearing on the application of PennEast Pipeline Company, LLC. for a blanket certificate of public convenience and necessity authorizing the construction and operation of the PennEast Pipeline and associated facilities, including the environmental impacts of and public need for the Project.

III. INTEREST OF PETITIONER

In support of its motion to intervene, SBMWA states that it is a non-profit organization established in 1949 to protect and restore central New Jersey's watersheds, tributaries, and habitats. It is within this region that a portion of the Project's construction activity will take place.

In its efforts to protect and restore the environment in our region, SBMWA organizes and implements conservation, advocacy, science, and education programs. SBMWA is a membership-supported organization headquartered in Hopewell, NJ, with more than 1,300 members with interests in the health and welfare of the Stony Brook-Millstone Watershed and the surrounding regions. Since 1992 SBMWA has run a volunteer-based stream watch monitoring program. SBMWA is uniquely qualified to comment on and provide relevant information concerning associated impacts to human health and the environment as a result of this Project. SBMWA brings this action on its own behalf and on behalf of its members. SBMWA has submitted comments on the Project in the past and incorporates those comments to SBMWA's motion to intervene.

The project traverses through Hopewell Township and waterways that lie within the Stony Brook Watershed. SBMWA has worked for years on the State and municipal level to implement protections for waterways and the associated riparian zones. Riparian zones (or buffers) along waterways protect water quality. Because of their importance to water quality, riparian zones are protected under the Flood Hazard Area Control Act, N.J.S.A 58:16A-50 et seq., Water Pollution Control Act and Water Quality Planning Act, N.J.S.A. 58:10A-1 et seq. and N.J.S.A. 58:11A-1 et seq. Activities in these areas are regulated not only by the New Jersey Department of Environmental Protection but in many cases have been regulated by the municipality as well. The proposed Project will cross numerous streams and wetlands in New Jersey. In particular the Project will cut through at least 31 Category One waterways. The New Jersey Department of

Environmental Protection has designated Category One waterways as its non-degradation waters and were designated as such because of its “exceptional ecological significance, exceptional recreational significance, exceptional water supply significance or exceptional fisheries resources.” N.J.A.C. 7:9B-1.4. In fact, several of the Category One waters subject to the PennEast Project were listed because of the use of those waters and adjacent land by threatened and endangered species. 2003 N.J. Regulations 15970 (2003). SBMWA supported the designation of these and other waterways for the Category One designation and continues to work on protecting additional waters. In addition to the impacts to waterbodies, the proposed project would adversely affect numerous ecologically sensitive freshwater wetlands, and forested lands. These environmentally sensitive areas include but are not limited to: Baldpate Mountain and the Ted Stiles Preserve, Sourlands Mountains, Goat Hill and Gravel Hill, and the Stony Brook.

SBMWA has supported the protection and preservation of land through regulation as well as open space programs including New Jersey’s Farmland Preservation Program and Green Acres Program. These programs have been supported by the voters of New Jersey, as well as local officials, non-profits and the State for decades. The proposed project will cross through approximately 4,500 acres of property preserved through these programs. The State, county and municipal governments, and non-profit organizations own, manage or hold conservation easements on these properties. The funding for these properties has come from taxpayer money. The proposed Project jeopardizes these programs and that public investment.

SBMWA has also worked with municipalities and others to protect trees through tree removal/tree cover ordinances. Through its impact to forests, which includes the reduction of interior habitat and resulting increase in fringe habitat, the Project will negatively impact important populations of species that rely on healthy interior forests. In addition, the Project may negatively impact the recreational, aesthetic, and other interests of SBMWA’s members.

SBMWA is concerned not only about the impact of the proposed construction activity, but also of the cumulative effect of this proposal along with impacts from previous and future projects on the region and in particular the Stony Brook-Millstone watershed. Under NEPA, FERC is required to prepare an analysis of the impacts from “past, present and reasonably foreseeable future actions” 40 C.F.R. 1502.16 and 1508.7. To date that has not occurred. The proposed EIS for the PennEast Project should include not only past projects from future projects as well. Past projects include the Transco Sentinel Project and Transco’s Leidy Line Southeast Expansion project. These projects were approved and built within our watershed. Currently there are proposals for the Garden State Expansion Project, the Dalton Expansion Project, and Diamond East

Project which would also negatively impact the watershed. To date, the resource reports ignore the cumulative and indirect impacts related to the construction of these projects. A review of past environmental assessments and environmental impact statements have failed to catalog, discuss and provide a meaningful analysis of these past and future impacts. The EIS for the PennEast project must not only include the above listed FERC related projects but other foreseeable projects in the area.

SBMWA is also concerned about the apparent segmentation of projects. Over the last several years the pipeline industry has developed a pattern of improperly segmenting individual pipeline projects to meet a perceived need of higher pipeline capacity for natural gas without conducting the proper environmental reviews. As examples, the Leidy Line, Garden State Expansion, Dalton Expansion, South Jersey Reliability Project as well as PennEast all appear to be linked to each other. Each of these projects, except for the South Jersey Reliability Project, has been brought individually before FERC, rather than as a unified project. The South Jersey Reliability Project is before the New Jersey State Board of Public Utilities and is dependent upon not only the Garden State Expansion but PennEast. All of these projects have been proposed in the same geographic region and relatively closely in time. They are on some level interdependent on each other. These factors are the hallmark for the need for a programmatic environmental impact statement (PEIS). The need for a PEIS in this type of circumstance is so clear that the Council of Environmental Quality specifically list this scenario as particularly appropriate. In addition to these projects, there are several additional projects listed on the FERC docket for the Northeast region that interconnect with each other. The fact that some of these projects are proposed by separate companies demonstrates a need for a programmatic review of the region's natural gas needs and the resulting direct, indirect and cumulative impacts from these proposals. Without a programmatic environmental impact statement these impacts will not be fully appreciated, which creates the potential for unnecessary environmental and community impacts. Without such a review, there is real potential for excess capacity, the result of which is contrary to FERC's guidelines under Certificate of New Interstate Natural Gas Pipeline Facilities. 88 FERC 61,227 (1999), clarified 90 FERC 61,128, further clarified, 92 FERC 61,094 (2000).

There is a real and evident concern that the PennEast Pipeline Project will continue to contribute to an oversupply of natural gas in New Jersey and the surrounding region. FERC's 2015-2016 Winter Energy Market Assessment specifically states that "the Northeast corner of the nation became a net exporter of natural gas. . ." FERC 2015-16 Winter Energy Market Assessment, Page 9 (Oct. 15, 2015). The Assessment continues by demonstrating the demand for new pipeline capacity is not being driven by the demand for the natural gas but by the increasing production. A production that the

2014 State of the Market will be outpaced by the applications for and construction of new pipeline infrastructure sometime in 2016. FERC 2014 State of the Market, Page 8 (Mar. 19, 2015) The Energy Information Agency projects that the demand for electricity will remain flat through 2040. In fact the demand for natural gas in New Jersey has remained relatively flat over the last several years as well. Given FERC's obligation to protect against overbuilding and unnecessary environmental impacts it is imperative that FERC review the need for and impacts from the PennEast Project in conjunction with all of the past and proposed projects in the region.

For the reasons set forth above, it is in the public's interest that SBMWA takes part in this proceeding as a full participant.

IV. REQUEST FOR EXTENSION OF TIME TO COMMENT

SBMWA respectfully requests a 90-day extension of the comment period, originally scheduled to terminate on October 29, 2015. Many of the revisions, corrections and much of the additional information and studies that FERC requested from PennEast through the pre-filing period was only made available to the public for the first time when PennEast filed on its application on September 24, 2015. PennEast's application is over 7,300 pages long. The comment period provided in FERC's Notice of Application, dated October 8, 2015, is so inadequate that it essentially denies the public's right to meaningfully comment on the application.

V. CONCLUSION

Wherefore, the SBMWA respectfully requests that the Commission to grant its Motion to Intervene as a party with full rights to participate in all further proceedings.

Respectfully submitted,



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February 27, 2015

Honorable Cheryl A. LaFleur, Chair
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Docket PF15-1-000
PennEast Proposed Natural Gas Pipeline

Dear Ms. LaFleur:

The Stony Brook-Millstone Watershed Association (Watershed) is strongly opposed to the proposed PennEast Pipeline because of the irreparable harm the project would have on the region's rivers and streams, water quality, fish and wildlife, and numerous areas that have been preserved with millions of dollars of public and private funding.¹

Central New Jersey's first environmental group, the Watershed Association has worked to protect clean water and the natural environment in central New Jersey since 1949 through conservation, advocacy, science and education.

Before raising issues on the specific proposal for which scoping comments have been solicited, we first want to make a broader point. The proposed PennEast Pipeline is just one of numerous pipelines in the region

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¹ Please see Attached Resolution.

that are pending or will soon be pending before the Federal Energy Regulatory Commission (FERC). At the Maine Natural Gas Conference this past fall, FERC acknowledged a rush of new pipelines was “on the horizon” in addition to the many already formally pending proposals.² Because of this proliferation of pipelines in the region, FERC should call time out, take a deep breath and initiate a Programmatic Environmental Impact Statement (EIS) that would look comprehensively at natural gas pipelines in the region.

Such a programmatic EIS is called for in the White House Council on Environmental Quality’s Regulations to address “the adoption of programs, such as a group of concerted actions to implement a specific policy or program.”³ The contemplation by FERC of numerous individual pipelines constitutes just such a “group of concerted actions.” The National Environmental Policy Act (NEPA) requires FERC to look at the “incremental impact on the environment from actions that have taken place, are currently taking place and are reasonably foreseeable in the future.”⁴ A Programmatic Environmental Impact Statement is the only valid way to begin to assess the cumulative impacts of natural gas pipelines in the region.

Beyond the need for a more programmatic look at the siting and construction of pipelines in the region, we also want to comment on environmental impacts that would result from the proposed PennEast pipeline.

Procedural Objection

² “A view from the Beltway,” Jeff C. Wright, Director, Office of Energy Projects.

³ 40 C.F.R. 1508.18(b)(3)

⁴ 40 C.F.R. 1508.7

While SBMWA set out its objections to the scoping process in its January 16, 2015 letter to FERC it bears repeating that the process used by FERC in this matter violates the letter of NEPA as well as the spirit behind the law.⁵ NEPA requires that FERC provide 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.”⁶ As part of that systematic, interdisciplinary approach the citizens have “a responsibility to contribute to the preservation and enhancement of the environment.”⁷ That responsibility is satisfied, in part, by providing information or comments to FERC during the scoping process. FERC is then supposed to take this information to set out the scope or breadth of the environmental impact statement development. 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.”⁸ Regulations require that the process is consistent with the statute and that it is useful to decision makers and the public.⁹ The scoping hearing begins the journey towards high quality data and review for the best informed decision. If the journey starts off on shaky footing the entire journey is in jeopardy. That is exactly what is occurring in this matter.

Inadequate Notice

⁵ Attached as Exhibit B.

⁶ 42 U.S.C. §4332

⁷ 42 U.S.C. §4331(c)

⁸ 40 C.F.R. 1500.1(b).

⁹ 40 C.F.R. 1500.2.

The notice of the scoping hearings and the hearings themselves are inadequate under the spirit of and the actual requirements of NEPA. In our January 16th letter, we described the issues with the scoping process and why that process was deficient.¹⁰ These deficiencies have not been corrected. The rescheduling of one of the hearings, the addition of another New Jersey location and the nominal extension of the comment period are inadequate. First, while an announcement of the comment period extension was noted through FERC's eLibrary system. That notice is not the official notice. The official notices are confusing and contradictory. The first official publication of the scoping hearings and comment period was in the Federal Register on January 28th.¹¹ In that notice, the comment period was noted to end on February 27, 2015.¹² A new notice was published in the Federal Register but referenced the original comment deadline of February 12, 2015.¹³ There is no mention of the comment extension. The next notice provided new dates for the canceled hearings on January 23rd and 26th but did not provide any information regarding the change of the deadline to submit written comments.¹⁴ The most recent Federal Register notice published on February 27th, references the postponement of a January 28th hearing and makes no mention of the deadline to file comments on the scoping process.¹⁵ The regulations require FERC to invite interested parties to participate in the scoping process.¹⁶ Interested parties included community organizations such as SBMWA.¹⁷ As set out in our previous letter, SBMWA clearly meets the definition of and is considered an interested party. The

¹⁰ Exhibit A.

¹¹ 80 F.R. 4557.

¹² Id.

¹³ 80 F.R. 5744.

¹⁴ 80 F.R. 7862.

¹⁵ 80 F.R. 10681.

¹⁶ 40 C.F.R. 1501.7(a)(1)

¹⁷ 40 C.F.R. 1506.6(b)(3)(iii)

written invitation of the new hearing dates received by this organization was post marked February 6, 2015, received several days later, and did not provide any information regarding the deadline to provide written comments.¹⁸ No invitation with correct information has been received by this organization.

As noted above, the purpose of the scoping period is to allow the public a meaningful opportunity to provide information that will inform the environmental impact statement investigation and analysis. The process that has been set out by FERC in this instance is contradictory and confusing. It is not providing the public with this opportunity. It violates the spirit if not the letter of the National Environmental Policy Act.

Inadequate Time

The actual scoping period is inadequate. This inadequacy is especially evident given the history of this particular project. PennEast began the process many months if not years before their public disclosure of the proposal. This organization sat down with PennEast to discuss the route and the project in general on September 23, 2014 and then participated in a public hearing PennEast and the Township of Hopewell had that evening. The official pre-filing was done on October 7, 2014.¹⁹ In the ensuing months, the public, governmental officials and non-profit organizations reviewed the route, obtained information and analyzed the impacts of that route. On January 16th, late that Friday afternoon, PennEast announced a new route that is substantially different in New Jersey.²⁰ The change in the route left little more than a month and a half to redo

¹⁸ See Exhibit C.

¹⁹ PennEast's Prefile Document October 7, 2014.

²⁰ FERC eLibrary 20150116-5238.

four months of work. Again, this extremely short time frame is not conducive to engaging the public or calculated to obtain the best information possible. In fact it sends the message to the public that FERC is not interested in their informed opinion but merely interested in checking off requirements on some flow chart. NEPA requires the empowerment of the public in our obligation "to contribute to the preservation and enhancement of the environment."²¹ The PennEast proposal is extremely complicated and because of environmental and policy implications is important to both the State of New Jersey and the Commonwealth of Pennsylvania. The proposal cuts through numerous waterways, wetlands, forests, parks owned by the states, counties, and municipalities. It cuts through wildlife sanctuaries and properties owned by conservation organizations. It impacts private business and residential properties. It is vital that the public is provided adequate time to review, analyze and comment on the scope of the EIS. It is just as important that the public views this process as being fair and just. That is a perception that is sorely lacking by the public at this time. Given the multiple missteps leading up to the hearings, the change in the route and the complicated nature of the project, an adequate time to comment is essential. There is no justification for such a short deadline to submit scoping comments. There are no required deadlines or imperatives, that may not be self-imposed by the applicant, that would dictate such a short comment period.

The original route was unique in that a vast majority of its route is not co-located with other utilities. Instead the proposal has targeted green fields and more specifically it has targeted multiple properties preserved as open space and farmland. The "new" route still impacts numerous greenfield preserved by the State of New Jersey and its

²¹ 42 U.S.C. §4331(c).

subdivisions as well as Nongovernmental Organizations (NGOs). The preservation of these lands is the result of decades of planning and policy to protect the natural resources and agricultural heritage of New Jersey. The pipeline will impact at least eight Category One streams in addition to their upstream tributaries in New Jersey. Category One waters in New Jersey are those that receive the most protection because they have the cleanest of NJ's waters providing habitat, recreation, drinking water supplies or aesthetic values.²² They are protected from any measurable change.²³ The crossing of these streams will have a negative impact on them. Given the vast policy implications of this project it is vital that a full scoping process takes place.

Another concern with the process set out by FERC in this matter is FERC's failure to comply with their policies. FERC's own FAQ on the process explains that scoping meetings are in the project area.²⁴ Those areas, in New Jersey would be: Delaware Township, Holland Township, Alexandria Township, Frenchtown, Kingwood Township, Lambertville, West Amwell, and Hopewell Townships. None of the New Jersey scoping hearings are in these communities. Instead both the originally schedule and the rescheduled hearing is in Ewing, a community not directly affected by the pipeline. Hampton, where another hearing was announced, is also not in a community affected by the proposed project.

Lastly the public hearings held in this matter are inadequate. FERC must provide meaningful opportunity for the public to participate in those hearings. The hearing held on February 25 at the West Trenton Ballroom demonstrates that the opportunity is somewhat limited. From personal observation the facility and its

²² NJAC 7:9B-1.4.

²³ Id.

²⁴ <http://www.ferc.gov/help/faqs/citizen-info.asp>. Last visited on February 26, 2015

parking area were unable to accommodate the large crowd that came to the meeting. The facility is reported to hold 450 people and estimates have the public exceeding those levels. While FERC representatives indicated there were 90 people signed up to speak, from our observation only 65 people were allowed to speak before the meeting ended at 11:00 p.m. Other estimates have the number of people signed up to speak to be significantly more than 90. The process limited speakers to three minutes significantly limiting the public's ability to provide comments that are critical to guiding the process. FERC representatives were disrespectful to the public and to public officials. At one point in the hearing FERC representatives were unhappy with the process and chided the public to "behave" or they would cancel the meeting. The FERC officials expressed concern was providing time for everyone to speak. Understanding the overwhelming public participation, FERC inexplicably took a rather long recess from the proceedings. The results of these two related actions were to disenfranchise the public and a good quarter to half of the room left the meeting during the recess. Despite this many people were unable to testify at the hearing. To date FERC has not responded to requests for additional hearings.

It is FERC's job during the NEPA process to engage the public. As set out above, the process has disenfranchised the public. As a result, FERC should extend the comment period and schedule hearings in the affected communities.

Substantive Comments.

Rivers, Streams and Creeks

The proposed PennEast pipeline would impact numerous waterbodies and wetlands along its route. The technique of “cutting” these streams, literally ripping them open as described by PennEast representatives at their open house, would irreparably harm these streams. The proposed activities would destroy habitat for sensitive aquatic species, create erosion and sedimentation, and impair water quality. An estimated sixty-five waterbodies and fifty wetlands will be cut, filled and otherwise degraded by PennEast’s preferred route. We are attaching a map of the new route with our initial review of the Category One Waters and wetlands crossed by the pipeline.²⁵ PennEast indicated that its original preferred route would cross 60 waterbodies and 33 wetlands.²⁶ In particular the original and the revised route will impact the following Category One waters, not including their tributaries:

- Hakiwokake Creek
- Nishisakawick Creek
- Little Nishisakawick Creek
- Lockatong Creek
- Wickecheoke Creek
- Alexauken Creek
- Stony Brook

These Category One (C1) waters contain some of the cleanest water in the State, provide habitat for imperiled species and have outstanding aesthetic and recreational values in New Jersey. Protecting these waters is especially important in a state wherein a majority of the monitored waters do not meet Federal Clean Water Quality Standards.²⁷ For example only 23% of the monitored waters support aquatic life²⁸

²⁵ Please Attached Exhibit D.

²⁶ PennEast’s prefile documented October 7, 2014, Page 7.

²⁷ 2011 New Jersey Integrated Water Quality Monitoring and Assessment Report.

²⁸ Id.

Only 0.3% of the assessed waters were clean enough to meet the fish consumption standard.²⁹ New Jersey defines Category One as waters as those that demonstrate “exceptional ecological significance, exceptional recreational significance, exceptional water supply significance or exceptional fisheries resources.”³⁰ Because of their importance, New Jersey protects these waters from any “measurable changes in water quality.”³¹ Measurable change means “changes measured or determined by a biological, chemical, physical or analytical method . . . that *might* adversely impact a water use.”³²

One of the ways New Jersey protects these exceptional waters from measurable change is through the implementation of a 300 foot riparian zone or buffer along the banks of these waterways. The 300’ riparian zone not only applies not only to the designated category one waterway but also to its upstream tributaries.³³

C1 waters are protected from any measurable change in water quality through the State’s anti-degradation regulations. “The quality of nondegradation waters shall be maintained in their natural state (set aside for posterity) The Department shall not approve any activity which, *alone or in combination with* any other activities, might cause changes . . . in the existing water quality characteristics.” (emphasis added)³⁴ Further the regulations provide that these waters will be protected from any measurable changes to the existing water quality.³⁵ The EIS must prepare a detailed

²⁹ Id.

³⁰ N.J.A.C. 7:9B-1.4.

³¹ N.J.A.C. 7:9B-1.4

³² Id.

³³ N.J.A.C. 7:13-4.1(c).

³⁴ N.J.A.C. 7:9B-1.5(d)(2)(i).

³⁵ Id. at (d)(2)(iii).

review of all C1 waters and tributaries. That review must include the impact from the pipeline construction activities, in addition to all past and foreseeable future impacts.

Below is a description of the ten C1 waters that are would be degraded from the project's current preferred route and/or the original route:

The Harihokake Creek was designated as a c1 waterway based upon the "exceptional ecological significance. The DEP determined that the waterway has "low stress (non-impaired) to the aquatic community with high percentage and good diversity of intolerant organisms."³⁶ Further the waterway is the reported habitat of wood turtles and is good habitat for the long-tailed salamander, a state threatened species.³⁷

The Little Nishisakwaick Creek was classified as category one because of its "low stress (non-impaired) to the aquatic community with a high percentage and good diversity of intolerant organisms."³⁸ Id. There have also been sightings of the threatened long-tailed salamanders.³⁹ Id.

Lokatong Creek was designated as a C1 stream throughout its entire length because of its "exceptional ecological significance."⁴⁰ It is important to note that the Lockatong meets all of the applicable water quality standards except for temperature and phosphorus.⁴¹ The EIS must examine the impacts of removing trees and other vegetation along the banks of the Lockatong in order to construct

³⁶ 2003 N.J. Regulations 15970 (2003)

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

the pipeline on instream temperature. Further, the disturbance of soils within the riparian zone may release additional phosphorous that will continue to impact the water quality of the stream.⁴²

The Nishisakawick Creek in addition to being a Category One water also has a Total Maximum Daily Load (TMDL) associated with it. Any development along or in the water will have to comply with the TMDL. Wood turtles and long-tailed salamanders have been sighted in the creek. According to DEP the Nishisakawick along with Little Nishisakwick and Wickecheoke Creek contain the second largest population of the long-tailed salamander in the State.

The Wickecheokie Creek was listed as a Category One waterway due to its exceptional habitat quality as well as wood turtle and long-tailed salamander sightings. The waterway also has a TMDL as a result of temperature, phosphorus and fecal coliform pollution.⁴³ The impacts of removing trees, vegetation, and soil in the riparian areas of the Wickecheokie Creek will have to be acknowledged, and analyzed in the EIS.

The original route would also impact the Stony Brook, our namesake. The Stony Brook was named as a Category One because it provides critical habitat for Brook Floater, Triangle Floater and Eastern Pondmussell. These mussels are listed as threatened or in the case of Brook Floater endangered under NJ's

⁴² Id.

⁴³ Id. at 15970

Endangered and non-games species act.⁴⁴ Further the Stony Brook is where the last known sighting of the Endanger Green Floater was made.⁴⁵

In addition to the C1 waters the proposal impacts the Delaware River and its tributaries. The Delaware River, which has been designated as a Wild and Scenic River.⁴⁶ The impacts to this river will be on multiple levels. First as the pipeline crosses the river. Second as it cuts through the various tributaries of the Delaware River. These tributaries receive the same protections and considerations as the Delaware River.⁴⁷ The purpose of the Wild and Scenic Rivers Act is to protect those rivers and surrounding environment that the United States has decided “possess outstanding remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.”⁴⁸ The statute requires the Federal Government shall not assist by granting license or otherwise in the construction of any water resources project that would have a direct or indirect impact on these waters.⁴⁹ While not directly applicable to pipelines it does provide useful guidance on the protections afforded to the Delaware River. Under FERC’s regulations, the EIS must identify all “state wild and scenic rivers, state or local designated trails, nature preserves, game management areas, . . .and lands owned or controlled by Federal or state agencies or private preservation groups. Also it must identify all of those areas are located within 0.25

⁴⁴ 39 N.J.R. 1845(a) (May 21, 2007)

⁴⁵ Id.

⁴⁶ 16 U.S.C. 1274(165)

⁴⁷ Id.

⁴⁸ 16 U.S.C. 1271.

⁴⁹ Id.

miles of any proposed facility.”⁵⁰ The regulations have similar requirements for Federal Wild and Scenic Rivers.⁵¹ The EIS must catalog all of the waters and directly address in detail the impacts to each and every water. The EIS cannot address waters in a general fashion.u

Wetlands

The proposed pipeline will also result in the degradation of numerous wetlands. According to PennEast’s submission on the original route the project would cross 33 wetlands. By our rough estimate the revised route will impact even more wetlands.⁵² Wetlands in New Jersey are protected under the Freshwater Wetlands Protection Act.⁵³ New Jersey classifies wetlands into three categories: ordinary, intermediate and exceptional resource value.⁵⁴ Any wetlands adjacent to or hydrologically connected with the Category One waterways are defined as exceptional wetlands. They are also exceptional wetlands if they provide habitat for or is used by threatened or endangered species.⁵⁵ Exceptional wetlands are provided a 150-foot transition area.⁵⁶ While intermediate value wetlands are provided a 50-foot transition area. ⁵⁷ The EIS should review the requirements and provide an analysis of how the applicant will be able to comply with these requirements. This analysis should be for each and every wetland impacted by the pipeline. In the likely event that the applicant is unwilling or alleges

⁵⁰ 18 C.F.R. 380.12(j)(4).

⁵¹ Id. at (j)(6).

⁵² Please see Exhibit D

⁵³ N.J.S.A. 13:9B-1 et seq.

⁵⁴ N.J.A.C. 7:7A-2.4.

⁵⁵ N.J.A.C. 7:7A-2.4((b)(2).

⁵⁶ N.J.A.C. 7:7A02.5(d).

⁵⁷ N.J.A.C. 7:7A02.5€

that they cannot meet the requirements of the regulations, the EIS must review and provide a detailed analysis on all of the affects to the resource. This does not mean just the immediate vicinity of the impact but the entire stream, the entire watershed, etc.

In general the Freshwater Wetlands Protection Act rules only allow for , cutting through a wetland if there is no practicable alternative.⁵⁸ Further, the project cannot destroy, jeopardize or adversely modify habitat for threatened or endangered species⁵⁹ and cannot cause or contribute to a violation of any applicable state water quality standard.⁶⁰ Therefore, the EIS must do a detailed and credible habitat survey.

Exceptional value wetlands, as one may expect, receive additional protections. An applicant may not cut or fill an exceptional resources value wetland unless there is a “compelling public need” A compelling public need is one which:

the proposed regulated activity will serve an essential health or safety need of the municipality in which the proposed regulated activity is located, that the public health and safety benefit from the proposed use and that the proposed use is required to serve existing needs of the residents of the State, and that there is no other means available to meet the stablished public need.⁶¹

The EIS should evaluate all of the elements of this definition to determine if the applicant meets these requirements. There has to be a concrete and documented

⁵⁸ N.J.A.C. 7:7B-7.2(b).

⁵⁹ Id at (b)(3)

⁶⁰ Id at (b)(5)

⁶¹ N.J.A.C. 7:7A-1.4.

evidence for each and every exceptional resource wetland that these elements are met by the PennEast proposal. For example, specific number of customer's to be served in each of the municipalities that the pipeline will travel should be demonstrated in the analysis. PennEast must demonstrate that its project addresses an essential health or safety need of the affected municipality not a generalized suggestion that homes will be severed or a unspecified reduction in the price of gas to customers. The EIS must also demonstrate with concrete evidence that there is no other alternative. This may mean an alternative route or an alternative method of meeting the alleged need for energy, for example through an energy reduction program.

The EIS should review and discuss the differences between New Jersey's definition of compelling public need and the standards by which FERC determines to issue a certificate of public convenience and necessity. We respectfully suggest that these concepts are not equivalent. The issuance of a certificate of need shall not be binding on New Jersey Department of Environmental Protection's review of whether there is a compelling public need.

Even if the wetland is not an exceptional wetland, the EIS must demonstrate that impacts to the wetlands meet the requirements of N.J.A.C. 7:7A-7.2(b)(12) which are applicable to all individual permits, for example, by determining the extent to which the project is consistent with the New Jersey State Development and Redevelopment Plan.⁶² The EIS must also include the examination of "the public interest in preservation of natural resources and the interest of the property owners in reasonable economic

⁶² N.J.A.C. 7:7A-7.2(b)(12)(i).

development.”⁶³ As will be explained below, this factor weighs heavily against the applicant.

Threatened and Endangered Species

PennEast has acknowledged⁶⁴ that the project will affect the Bog Turtle, Indiana Bat, Dwarf Wedge Mussel and the Northern Long-eared Bat. Except for the Northern Long-eared Bat, which is proposed for listing under the Endangered Species Act, all of these species are listed under the Federal Endangered Species Act.⁶⁵ Attached is a map graphically showing the threatened and endangered species along the route.⁶⁶

As has been noted by several commenters during the pre-file process, the region is also home to numerous migratory bird species. These species receive protection under the Migratory Bird Treaty Act.⁶⁷

Commenters have reported to FERC that Bald Eagles have been sighted along the route. Bald Eagles are protected under the Migratory Bird Treaty Act; Bald and Golden Eagle Protection Act⁶⁸ and the Lacey Act⁶⁹. The Bald Eagle is also listed as an endangered species under New Jersey laws.⁷⁰

The Boblink is another example of a threatened species that will have its habitat degraded by the project.⁷¹ The Bobolink can be found on Baldpate Mountain. FERC

⁶³ Id.

⁶⁴ PennEast’s prefile document October 7, 2014, page 7.

⁶⁵ 16 U.S.C. 1531 et. seq.

⁶⁶ Please See Exhibit D

⁶⁷ 16 U.S.C. 703 et. seq.

⁶⁸ 16 U.S.C. 668 et. seq.

⁶⁹ 16 U.S.C. 3371 et. seq.

⁷⁰ <http://www.state.nj.us/dep/fgw/ensphome.htm> last visited Feb. 27, 2015.

⁷¹ N.J.S.A. 23:2A-1 et. seq.

must consider the existence of NJ's threatened and endangered species is important under NEPA. It is important because the Natural Gas Act subjects projects to the Federal Water Pollution Control Act (CWA).⁷² Under the CWA, a state agency may deny a certification in circumstances wherein the application does not meet the water quality standards and effluent limitations in addition to "any other appropriate requirements of State law."⁷³ One of those appropriate requirements under State Law is the protection of threatened and endangered species wherein that species "plays a role in maintaining water quality or if their presence is an aspect of a designated use."⁷⁴ Another example are the mussels found in the Stony Brook that are protected as threatened or endangered. Mussels and other shellfish provide filtering services to the water thus impacting water quality.

Therefore, the EIS must document Federally and State listed threatened and endangered species.

Preserved Open Space and Farmland

Unfortunately, the proposed pipeline will destroy the area's rural landscapes. By current count the new preferred route and the original route will cross approximately 50 properties totaling 3,377 acres that the State of New Jersey, Hunterdon and Mercer County, local municipalities and non-profit groups have spent decades and untold dollars to preserve.

⁷² 33 U.S.C. 1341(d).

⁷³ Id.

⁷⁴ Clean Water Act Section 401 Water Quality Certification: A Water Quality Protection Tool For States and Tribes, U.S. E.P.A. 2010 page 21.

For example the proposal will cut through Gravel Hill, purchased by the New Jersey Natural Lands trust. Gravel Hill's forests provides habitat for wild comfrey, black cohosh and other native species. The open fields of the preserve provides important habitat for the bobolink, American Kestrel and eastern meadowlark.⁷⁵ The project will also impact the Thomas F. Breden Preserve at Milford Bluffs.⁷⁶

The project will also cut through Washington Crossing State Park and Baldpate Mountain. Baldpate Mountain is owned by Mercer County Park and Friends of Hopewell Valley Open Space. It was subject to a recent reforestation project and is an important recreational destination for hikers, bikers and horseback riders.⁷⁷ According to the Washington Crossing Audubon Society, Baldpate provides habitat to thirty-one neotropical breeding species including 13 warblers, yellow-breasted chat, two tanagers, three vireos and two Catharus thrushes.⁷⁸ It is clear that this preserved space provides exceptional habitat for important species.

The project appears to be cut through or is at least adjacent to the Pleasant Valley Historic District and Howell Living History Farm. These sites are listed in the New Jersey State and National Registers of Historic Places.⁷⁹

The proposed pipeline will cut through Curlis Lake Woods. This area is part of the Mercer County Parks system⁸⁰ and is part of a larger grouping of parks adjacent to each other. It also contains a large beech forest.⁸¹

⁷⁵ <http://nj.gov/dep/njnlt/gravelhill.htm> last visited February 24, 2015.

⁷⁶ Id.

⁷⁷ <http://www.mercercountyparks.org/parks/baldpate-mountain> Last visited February 24, 2015

⁷⁸ Washington Crossing Audubon Society comment letter, FERC Document # 201501130064.

⁷⁹ <http://www.mercercountyparks.org/parks/howell-living-history-farm> Last visited February 24, 2015

⁸⁰ Mercer County Park Northwest Master Plan, September 2006.

⁸¹ Id.

The pipeline will also cut through the Sourlands Mountain Region. This is a range that is located in Mercer, Hunterdon and Somerset Counties. It provides a complex ecosystem and is an important migratory songbird breeding habitat. It is also an important recreational region to the State.

Lastly, the proposal will cut through Washington Crossing State Park, place where George Washington crossed the Delaware River and through which his troops marched on their way to the Battle of Trenton, the turning point of the American Revolution. In addition to its historic attributes the park provides a wide range of recreational and education opportunities.⁸²

The original proposed route would have also crossed through the Baldwin Lake Wildlife Management Area and Mercer Meadows, a county park

Not only are these properties important to species but they provide a multitude of opportunities to residents and non-residents. The U.S Fish and Wildlife Service survey found in New Jersey that 766,000 Anglers used New Jersey waters and 94,000 Hunters used our wild areas. Additionally 1,875,000 people took part in wildlife watching activities in 2011.⁸³ In discussing their survey, USFWS believes these numbers to significantly undercount the actual participation in these activities.⁸⁴ Recreational opportunities provide significant economic, cultural and recreational benefits to the State.

FERC regulations require the applicant to avoid eligible or registered places on the National Register, officially designated parks, wetlands and scenic, recreational and

⁸² <http://www.state.nj.us/dep/parksandforests/parks/washcros.html>. Last visited February 24, 2015

⁸³ 2011 National Survey of Fishing, Hunting and Wildlife-Associated Recreation, U.S. Fish & Wildlife Service, Dec. 2013, page 4.

⁸⁴ Id. at 2.

wildlife lands.⁸⁵ The EIS must examine the impacts to these lands and to in its alternative analysis determine whether there is an alternative that will avoid all of these requirements.

Another importance of these preserved properties is in the circumstances that the property contains a wetland to be impacted by the pipeline. In order to receive a permit to fill or impact a wetland and its transition area, the applicant must meet the requirements of N.J.A.C. 7:7A-7.2(b)(12). One of those elements is “the public interest in preservation of natural resources and the interest of the property owners in reasonable economic development.”⁸⁶ The proposed pipeline will cross approximately 50 properties preserved through NJ’s open space or Farmland Preservation programs. One of these attributes of the program is that the property owner sells and the governmental or non-profit organization purchases the development rights on the property. In essence the fee owner’s expectation of economic development is voluntarily and severely restricted. On the other hand, the interest in preserving the natural resources is extremely high. The property owner voluntarily reached an agreement to sell the development rights and a governmental entity used public money solely or in conjunction with non-profit money to preserve the natural resource. Both the fee owner and the public highly valued the natural resources of the property.

FERC must catalog all of the preserved property, parks, wildlife areas, etc and weigh heavily FERC’s preference that these properties are avoided by the applicant.

Historic and Cultural Resources

⁸⁵ 18 C.F.R. 380.15.

⁸⁶ N.J.A.C. 7:7A-7.2(b)(12)(i).

It should come as no surprise that New Jersey is a historic treasure trove. This is the place where then General Washington turned the tide of the Revolutionary War by crossing the Delaware at the aptly named Washington Crossing Park and prevailing at the subsequent Battles of Trenton and Princeton. New Jersey along the route of the pipeline is teeming with historic sites. A few of those sites are mentioned above. The Township of Hopewell as well as several other municipalities along the route has submitted comments detailing the various historic sites that must be cataloged, reviewed and analysis during the scoping period.

The National Historic Preservation Act requires FERC to consider a projects impacts to historic resources.⁸⁷ The EIS must list all of the historic resources directly and indirectly impacted by this proposal and discuss those impacts.⁸⁸

Cumulative and Other Impacts

In preparing and reviewing the EIS, FERC must examine the cumulative impacts⁸⁹ as well as the direct and indirect impacts⁹⁰. The EIS review is required to look at the impacts to the region not an artificial 400' study corridor. For example when you cut a stream, destroy the riparian zone, compact the soils in that zone, what is the impact on this degradation not only to the immediate area but downstream, within the receiving body and within the watersheds? The death by a thousand stream cuts must be examined in this EIS. What is the impact to each of the watersheds affected? What is the impact to the Delaware River or the Stony Brook?

⁸⁷ 16 U.S. 470(f).

⁸⁸ 18 C.F.R. 380.14.

⁸⁹ 40 C.F.R. 1508.25(a)(2).

⁹⁰ 18 C.F.R. 1508.25(c).

Climate Change

Climate Change is an environmental condition that must be given the highest level of review. In the words of President Obama, “no challenge -- no challenge -- poses a greater threat to future generations than climate change.”⁹¹ President Obama also said “the best scientists in the world are all telling us that our activities are changing the climate, and if we don’t act forcefully, we’ll continue to see rising oceans, longer, hotter heat waves, dangerous droughts and floods, and massive disruptions that can trigger greater migration and conflict and hunger around the globe. The Pentagon says that climate change poses immediate risks to our national security. We should act like it.”⁹²

When reviewing the climate change impacts, FERC should compile the information and review the impacts as if climate change is the threat that it is. FERC’s review must be in compliance with the Administration’s climate change policy.

Part of the review must be a “focus on protecting important landscapes . . . enhancing U.S. carbon sinks such as forests, grasslands, wetlands.”⁹³ FERC’s regulations re-enforces these dictates in that they require that: “the project sponsor shall, to the extent practicable, avoid places . . . officially designated parks, wetlands; and scenic, recreational, and wildlife lands.”⁹⁴ FERC’s review of the impacts to the wetlands and forests, etc. must not only consider the direct impacts to those resources but must also address the impacts the degradation of those systems will have on the climate.

⁹¹ President Obama’s State of the Union Address January 20, 2015.

⁹² Id.

⁹³ Climate and Natural Resources Priority Agenda

⁹⁴ 18 C.F.R. 3801.5

Before the President's State of the Union address, before the climate change action plan, NEPA already required the examination of the climate change impacts from a project. To re-enforce this obligation and to provide guidance, the Council on Environmental Quality released draft guidance.⁹⁵ The guidance reinforces the need to review climate change during the NEPA review. "Climate change is a fundamental environmental issue, and the relation of Federal actions to it falls squarely within NEPA's focus."⁹⁶ As part of FERC's analysis FERC must examine in the context of climate change:

- Direct, indirect and cumulative impacts analysis.
- Highlights the consideration of reasonable alternatives and points to the need to consider the short-term and long term effects and benefits in the alternatives analysis and mitigation to lower emissions.⁹⁷

This guidance also requires FERC to look at a broad programmatic or landscape-scale level, when appropriate.⁹⁸ We urge FERC to find it appropriate to look at the programmatic level. What are the GHG and climate change affects that the entire natural gas complex has on our region and the world? Not only should FERC examine the GHG emissions from the extraction, transportation and use of natural gas, but it also needs to examine and quantify the climate change impacts from the destruction of trees (loss of carbon sequestration), emissions from soil due to disturbance and loss of capacity of the soil to sequester carbon, etc.

⁹⁵ Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts, Dec. 18, 2014.

⁹⁶ Id.

⁹⁷ Id. at 4.

⁹⁸ Id. at 4.

In short while the proposed project's contribution to climate change may be small that does not excuse FERC from collecting that information and analyzing it in the EIS.⁹⁹

While preparing and evaluating the EIS, FERC must consider and greenhouse gas emissions directly and indirectly resulting from any approval of the pipeline. It must also take into consideration the GHG emissions that occur in the area of the project.¹⁰⁰

Cumulative Impacts

NEPA requires FERC to review in its EIS the cumulative impacts of past actions, whether that of FERC, the federal government, private lands owners, state and local government, the proposed action as well as foreseeable future actions. One of the foreseeable future actions is the co-location of additional pipelines along this route. It is FERC's policy that pipelines be co-located. The analysis should examine what the foreseeable impacts could be.

Once of the foreseeable futures is the additional installation of natural gas pipelines. While we will discuss past, present and future pipelines below we suggest that the permitting and construction of additional pipelines must be reviewed. These projects are foreseeable and that foreseeability is demonstrated in a presentation by Jeff C. Wright, Director of the Office of Energy Projects demonstrates the anticipated growth rate the shale gas reserves.¹⁰¹ The very same presentation demonstrated the

⁹⁹ Id. At 9.

¹⁰⁰ 40 C.F.R. 1508.7 cited by New York Natural Resources Defense Council, Inc. v. Kleppe, 429 U.S. 1307, x (1976)

¹⁰¹ A View from the Beltway, Maine Natural Gas Conference October 9, 2014 page 5.

various projects that are in pre-filing, that are pending and are on the horizon.¹⁰² Given the knowledge of the increasing development of the Marcellus shale reserves, the anticipated demand for natural gas and the pipelines are in various stages of the process it is incumbent upon FERC to perform a rigorous cumulative impacts analysis.

Alternatives

FERC's alternative analysis is the heart of the NEPA process.¹⁰³ It is vital that in reviewing the need for the project that FERC consider alternatives not only as to the route taken, methods of crossing the region, but whether other measures can be taken by the region will address the alleged need for the project. In essence, the no action alternative should be given strict and extensive review.

No Action

The Watershed strongly believes the No-Action alternative is the best alternative once all factors are examined. There is little credible evidence demonstrating that New Jersey requires another 1 billion cubic feet of natural gas a day.

According to the 2011 New Jersey Energy Master Plan there were approximately 1,500 miles of interstate transmission pipelines in the state.¹⁰⁴ Since that time New Jersey has added additional pipeline capacity. For example Spectra's NJ-NY expansion added 800 mmcf/d and Transco's Northeast Supply Link added 250 mmcf/d¹⁰⁵. FERC approved the Leidy Line Southeast Expansion Project that added 525,000 dekatherms

¹⁰² Id. Pages 7-9.

¹⁰³ 40 C.F.R. 1502.14

¹⁰⁴ 2011 New Jersey Energy Master Plan, December 6, 2011 page 57.

¹⁰⁵ http://www.northeastgas.org/pdf/t_kiley_regional_update.pdf Last visited February 26, 2015

per day.¹⁰⁶ In 2008 Transco received approval for the construction of the Sentinel Project.¹⁰⁷

The Energy Information Agency reports that in 2012 New Jersey consumed 670.8 trillion BTUs.¹⁰⁸ The PennEast proposal would bring an additional 1 bcf/d of natural gas or 377.125 trillion BTUs to the region a year. The clear need for this additional supply in New Jersey must be demonstrated.

That clear need must also be clearly demonstrated in light of the other actions that can and should be taking place to meet any alleged need. Specifically the pursuit of energy efficiency projects may be able to meet any possible increase in the need for additional supplies. A 2009 study on energy efficiency determined that it is the least costly method adding additional resources.¹⁰⁹

Other Alternative

FERC must examine alternative routes as well as review different techniques to constructing the pipeline. For example, horizontal directional drilling and other methods under waterbodies and wetlands must be considered.

¹⁰⁶ Order Issuing Certificate and Approving Abandonment Docket No. CP13-551-000 dated December 18, 2014.

¹⁰⁷ Transcontinental Gas Pipe Line Corp., 124 FERC 61,160 (2008).

¹⁰⁸ <http://www.eia.gov/state/?sid=NJ> Last visited Feb. 27, 2015.

¹⁰⁹ Saving Energy Cost-Effectively: A National Review of the Cost of Energy Saved through Utility-Sector Energy Efficiency Programs, American Council for an Energy-Efficient Economy, September 2009, page ii.

Conclusion

It is respectfully submitted that the EIS must consider each and every impact on the natural, cultural, historic and economic resources along its route. The need for the project must be clearly demonstrated and that "need" must be weighed against all of the impacts caused by the proposal.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "M. L. Pisauro, Jr.", written in a cursive style.

Michael L. Pisauro, Jr.

EXHIBIT A

Position on the proposed PennEast Pipeline

The proposed PennEast Pipeline would inflict irreparable harm to clean water and the natural environment within the Stony Brook-Millstone Watershed and elsewhere along its proposed route. In recognition of this fact, the Stony Brook-Millstone Watershed Association opposes the project. The planned route of the pipeline—for which no urgent need has been established—would carve a wide swath, as much as 125 feet in some places, through this region’s streams, wetlands, and forests. It would degrade habitat for fish and wildlife dependent on these habitats. It would threaten drinking water supplies across this region.

The Association’s review of the project revealed that the proposed pipeline would:

- Degrade waterways within our watershed. One possible route would cut through the Stony Brook and Baldwin Creek, which have been designated as “Category One” waterbodies by the NJ Department of Environmental Protection. This classification recognizes the outstanding ecological value of these streams. Some three dozen additional central New Jersey streams would be degraded by the pipeline.
- Fill and degrade wetlands important to this region. According to PennEast, 33 wetland areas would be disturbed and crossed by the pipeline.
- Carve up mature forests into smaller patches of habitat, reducing their value for forest-dependent wildlife and making these areas more susceptible to colonization by non-native invasive species that can out-compete native species.
- Destroy and degrade habitat for threatened and endangered species.
- Damage dozens of areas that have been preserved as open space and protected farmland, undermining public and private preservation programs. At least \$24 million in public and private funds have been spent to preserve areas that would be damaged by the proposed pipeline. One such area on one of the possible routes was preserved by the Watershed Association and other entities.
- Serve no demonstrated need for natural gas in our region. In fact, the gas delivered through this pipeline would most likely serve other regions of the country and/or be liquefied and shipped overseas.

Our review revealed that current planning for pipelines is marked by a lack of regional, national or programmatic planning. Instead, the environmental impacts and public needs for such infrastructure are currently evaluated singly and in isolation from other existing and proposed pipelines.

EXHIBIT B



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January 16, 2015

Honorable Cheryl A. LaFleur, Chair
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Docket PF15-1-000
PennEast Proposed Natural Gas Pipeline

Dear Ms. LaFleur:

The Stony Brook Millstone Watershed Association (SBMWA) is the oldest watershed organization in NJ and has been protecting its waters and the State of New Jersey's environment since 1949. SBMWA met with PennEast, as an interested environmental organization in September 2014 and has participated in the public hearing in Hopewell Township, at the Open House on November 5, 2014 as well as several other community meetings. On behalf of SBMWA I object to the timing of, number of and location of the proposed scoping hearings. SBMWA requests that additional hearings in New Jersey be scheduled and within a Hunterdon County municipality affected by the pipeline.

SBMWA objects for the following reasons:

- There is insufficient time between the notice of the scoping hearing and the initial hearing.
- There is insufficient number of hearings, especially in New Jersey.
- There should be additional hearing locations in New Jersey.

The proposed scoping hearings violates NEPA and its implementing regulations. NEPA requires that FERC provide 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. As part of that systematic, interdisciplinary approach the citizens have “a responsibility to contribute to the preservation and enhancement of the environment.” 42 U.S.C. §4331(c). In implementing NEPA, the Council of Environmental Quality found that the “NEPA procedures must 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). It is through the scoping hearing that the extent and nature of the NEPA review is decided. Regulations require that the process is consistent with the statute and that it is useful to decision makers and the public. 40 C.F.R. 1500.2. The current scoping process frustrates this requirements.

The notice of the scoping hearings and the hearings themselves are inadequate to meet the dictates of NEPA. First, there was insufficient notice of the first hearing. The first hearing is scheduled for January 27th and the FERC posting of the notice on its website provided less than two weeks for the public to prepare for the scope hearing. As noted above and as reinforced in the notice, the scoping hearing will set forth “what issues they need to evaluate in the EIS.” The notice further goes on to describe the purpose of the hearing “focus the analysis in the EIS on the important environmental issues.” The notice further requests that the public comment on the scope of issues to be considered in the EIS.

The PennEast proposal is extremely complicated and important to both the State of New Jersey and the Commonwealth of Pennsylvania. It is unique in that a vast majority of its route is not co-located, in fact all of the route in New Jersey, is not co-located with other utilities. Instead the proposal has targeted green fields and more specifically it has targeted scores of preserved open space and farmland. The preservation of these lands is the result of decades of planning, and policy to protect the natural resources and agricultural heritage of New Jersey. The pipeline will impact at least 22 Category One streams or their tributaries in NJ. Category One waters in NJ are those that receive the most protection because they have the cleanest of NJ’s waters providing habitat, recreation, drinking water supplies or aesthetic values. NJAC 7:9B-1.4. They are protected from any measurable change. *Id.* The crossing of these streams will have a negative impact on them. Given the vast policy implications of this project it is vital that a full scoping process takes place.

First, there is inadequate time between the notice and the first scoping hearing. The current proposal does not permit a full scoping process to take place. It is the goal of the scoping hearing for public involvement to be encouraged. "NEPA and CEQA: Integrating Federal and State Environmental Reviews," Council on Environmental Quality, February 2014. For there to be an open and meaningful process the public must be provided sufficient time to prepare for the scoping. As noted above the only New Jersey scoping hearing is in less than two weeks. The lack of notice does not encourage public involvement. This does not provide sufficient time to provide meaningful comments to a process that will determine the entire EIS process.

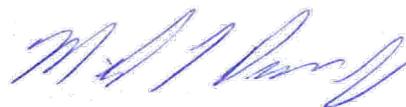
Second, the PennEast proposed pipeline traverses two counties in New Jersey including multiple municipalities. Mercer and Hunterdon Counties are affected. Within those counties: Delaware Township, Holland Township, Alexandria Township, Frenchtown, Kingwood Township, Lambertville, West Amwell, and Hopewell Townships are traversed or impacted by the pipeline.. The scoping hearing is not in any of those locals. FERC's own FAQ on the process explains that scoping meetings are in the project area. Instead of complying with this statement, the meeting is in Ewing township which is south of the proposed terminus of the pipeline and on a road that is heavily congested which makes it difficult for those interested in attending to make it on time. In short it is inconvenient to a vast majority of the communities affected by the pipeline proposal. The scoping meeting scheduled in Ewing should be relocated to Hopewell Township, an affected community.

Third, given the number of people and communities affected by this pipeline in New Jersey a single hearing in an unaffected community is insufficient. There should be at least one additional scoping hearing in New Jersey in a Hunterdon County community.

Lastly, I note that SBMWA is an interested party in this matter and is listed as such in PennEast's pre-file documents. SBMWA also meets the definition of interested community organization under 40 C.F.R. 1506.6(b)(3)(vi). SBMWA has not received to date an official notice of the scoping hearing. The failure to provide written notice to SBMWA is a violation of NEPA.

For all of the above reasons it is respectfully requested that FERC schedule additional scoping hearings in New Jersey, and extend the time to submit scoping comments.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "M. L. Pisauro, Jr.", written in a cursive style.

Michael L. Pisauro, Jr.

Document Content(s)

SBMWA final comments on scoping hearing.PDF.....1-4

EXHIBIT C

UNITED STATES OF AMERICA
Federal Energy Regulatory Commission

PennEast Pipeline Company, LLC

Docket No. PF15-1-000

NOTICE OF REVISED
PUBLIC SCOPING MEETINGS FOR THE
PENNEAST PIPELINE PROJECT

(February 5, 2015)

On January 13, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned PennEast Pipeline Project, Requests for Comments on Environmental Issues, and Notice of Public Scoping Meetings* (NOI). On January 23 and 26, 2015, we issued notices to postpone the January 27 and 28, 2015 public scoping meetings listed in the NOI. **The revised dates for the scoping meetings are:**

When: Wednesday, February 25, 2015
Time: 6 PM
Where: West Trenton Ballroom
40 W. Upper Ferry Road
West Trenton, New Jersey 08628

When: Thursday, February 26, 2015
Time: 6 PM
Where: The Grand Colonial
86 Route 173 West
Hampton, New Jersey 08827

These public meetings will be posted on the Commission calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information. Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link and the project docket number (i.e., PF15-1).

Kimberly D. Bose,
Secretary.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON D.C. 20426

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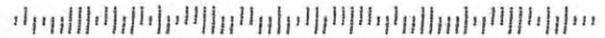
Executive Director
Mr. Jim Waltman

Stony Brook-Millstone Watershed Association

31 Titus Mill Road

Pennington
, NJ 08534

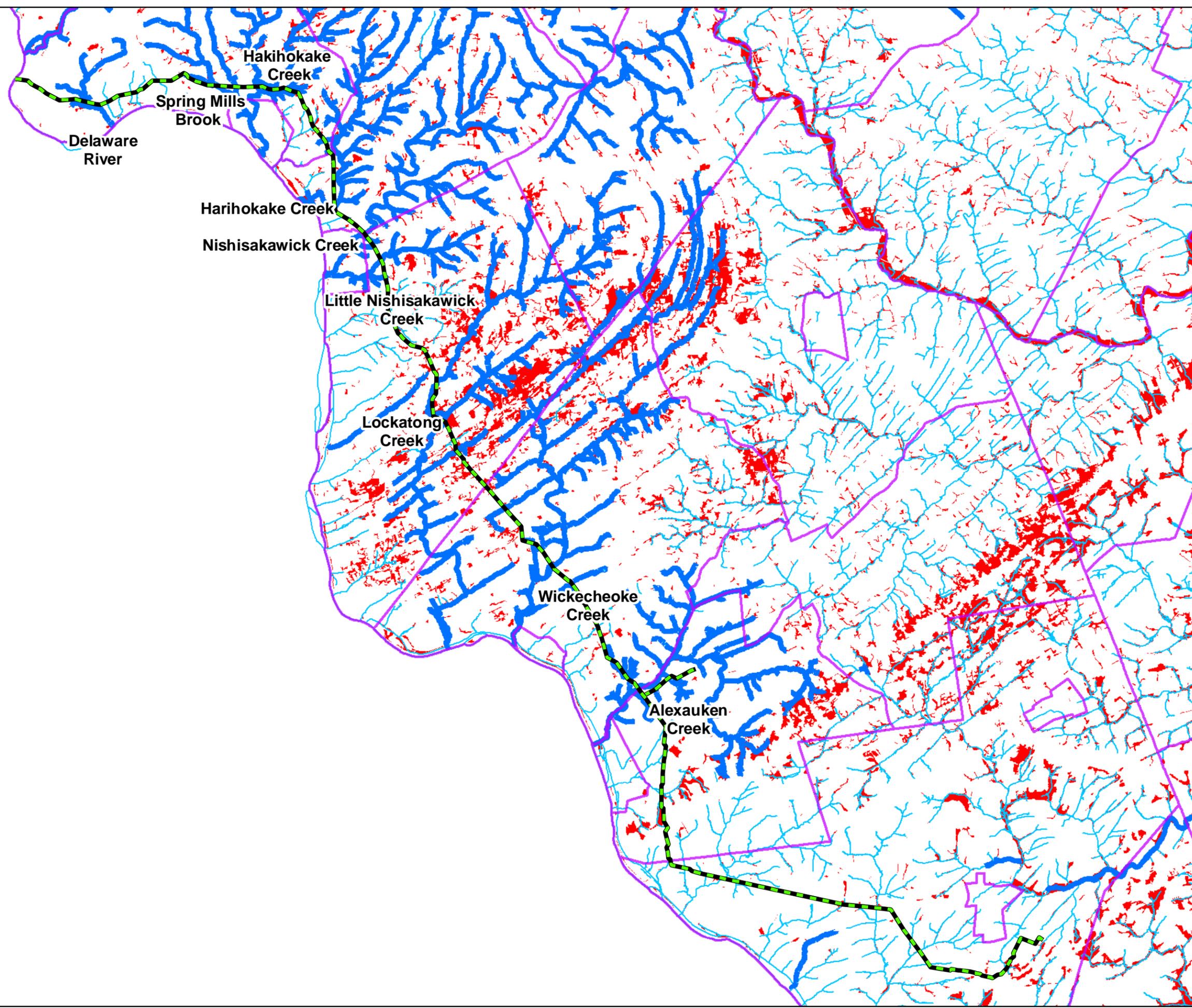
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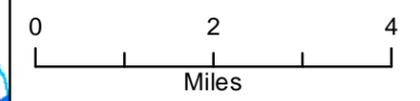
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EXHIBIT D

PennEast Pipeline New Jersey



- PennEast Pipeline
- Muni Boundary
- Streams
- C1 Stream 300ft Buffer
- Wetlands

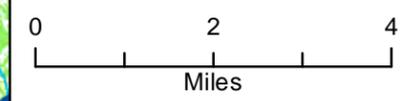


Data Sources:
NJ Dept. of Environmental Protection - SWQS 12/2010,
Stream, 2002, Muni 2013, WMA 2010, LULC 2007,
County Parcels 2014 & Landscape Project 3.1.
This secondary map product has not been verified or
authorized by the source agencies.
Stony Brook-Millstone Watershed Association 1/2015
Project: HopwellTwp-PennEastPipeline_nj_wetlands.mxd

PennEast Pipeline New Jersey



- PennEast Pipeline
 - Muni Boundary
 - Streams
 - C1 Stream
300ft Buffer
- RANK**
- Rank 1 - Habitat specific requirements
 - Rank 2 - Special Concern
 - Rank 3 - State Threatened
 - Rank 4 - State Endangered
 - Rank 5 - Federal Listed



Data Sources:
 NJ Dept. of Environmental Protection - SWQS 12/2010,
 Stream, 2002, Muni 2013, WMA 2010, LULC 2007,
 County Parcels 2014 & Landscape Project 3.1.
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 Stony Brook-Millstone Watershed Association 1/2015
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