



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000

www.wileyrein.com

August 10, 2016

R. Steven Richardson
202.719.7489
RSRichardson@wileyrein.com

Kimberly Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Re: Proposed PennEast Pipeline Project
FERC Docket No. CP-15-558

Dear Ms. Bose:

I am writing on behalf of Homeowners Against Land Taking-PennEast (HALT) in support of the August 1, 2016 submission by the New Jersey Conservation Foundation (NJCF) and Stony Brook-Millstone Watershed Association (SBMWA).¹ This submission outlined flaws in the Draft Environmental Impact Statement (DEIS) and FERC's failure to comply with the National Environmental Policy Act (NEPA) for the proposed PennEast Pipeline Company, LLC project (FERC Docket No. CP-15-558). It also called for the Federal Energy Regulatory Commission (FERC) to withdraw the DEIS until the flaws were fixed. HALT concurs with the submission's assessment of the DEIS and joins the request for FERC to withdraw it.

HALT is a non-profit organization comprised of more than 300 homeowners in New Jersey's Hunterdon and Mercer Counties and several counties in Pennsylvania whose homes, farms, and livelihoods are directly threatened by PennEast's proposed pipeline. HALT's members, as impacted homeowners, have a significant interest in ensuring the DEIS addresses all of the potential environmental, economic, property, recreational, historical, and cultural impacts from the project and that the DEIS consider all possible alternatives. The DEIS released on July 22, 2016 contains serious gaps and errors and does not comply with NEPA's requirements.

As NJCF and SBMWA noted, the DEIS is missing a significant amount of data that FERC needs to properly analyze the impacts of the proposed project and develop and compare alternatives. Missing data includes, but is not limited to:

- Evaluations of geological resources, including landslide risk evaluations and karst impacts evaluations;
- Inventory and impacts analysis of water wells and springs;

¹ FERC Docket No. CP-15-558, Accession No. 20160801-5122.



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- Inventory and impacts analysis of wetlands and vernal pools;
- Impacts on C-1 streams and other waterbodies;
- Surveys and impact analysis regarding endangered and threatened species;
- Surveys and impacts analysis for historic and cultural resources;
- Cumulative impacts analysis.

In many cases, the lack of data is striking. For example, FERC acknowledges that PennEast has only surveyed for historic and cultural resources for 32% of the affected area in New Jersey,² and that PennEast has “a number of survey reports, avoidance plans, evaluation studies and reports, and potential treatment plans pending” for both Pennsylvania and New Jersey.³ Yet with only minimal data, FERC released the DEIS with conclusions that impacts to historic and cultural resources could be mitigated.

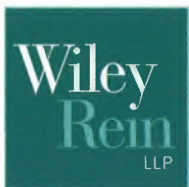
As discussed by NJCF and SBMWA, by concluding the project’s impacts are minor and able to be mitigated, without actually analyzing the relevant and necessary information, FERC is prejudging PennEast’s application, which violates NEPA. The DEIS does not include fully developed, specific mitigation plans for the potential impacts to environmental, recreational, visual, or cultural resources. Despite having inadequate data for nearly all of the categories the DEIS was supposed to analyze, and despite PennEast not actually providing specific mitigation measures for many impacts, FERC concluded all the impacts would be at “less-than-significant levels” and could be adequately addressed through “the mitigation measures,” whatever those end up being. FERC’s conclusion is based solely on speculation so it cannot form the basis of a major federal action.

As outlined in NJCF and SBMWA’s submission, according to FERC’s own Guidance Manual for Environmental Report Preparation, PennEast was required to submit all missing data at the time it filed its application or in response to FERC’s Environmental Impact Requests. At a minimum, FERC was required to collect this data *before* issuing its DEIS and *before* making a final decision on PennEast’s application. However, the DEIS repeatedly indicates that PennEast need only provide the data before construction.⁴ In addition, the DEIS repeatedly asserts PennEast can get the data through use of eminent domain authority, which it would

² DEIS at 4-193.

³ DEIS at 4-186, 4-194.

⁴ See, e.g., DEIS at 5-19–5-30 (list of conditions, many to be met only pre-construction).



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only have *after* FERC grants a Certificate.⁵ These statements show FERC has no intention of obtaining the missing data until after it makes a decision on the application. This violates NEPA in multiple ways. First, FERC cannot meet NEPA's mandate to consider environmental information before making a decision on the pipeline if it has already authorized the pipeline before ever reviewing the data.⁶ Second, FERC cannot develop, consider, and weigh a range of alternatives before deciding a preferred action, as required by NEPA,⁷ if it has already selected a preferred action before reviewing the missing data.

Third, as NJCF and SBMWA asserted, NEPA requires public participation⁸ and the public will be completely deprived of any opportunity to meaningfully participate in the NEPA process if the missing data is not available to the public until after the DEIS comment period closes or until after FERC renders its decision. Of particular concern is the lack of opportunity to comment on the mitigation measures, which FERC has preemptively concluded will be effective, because failure to adequately mitigate impacts could lead to devastating harms to the environment and HALT members' properties. It is highly unlikely the missing data and mitigation measures will all be received within 45 days, so the only way to fully involve the public in review as required by NEPA, and not just in review of the minimal amount of information in the current DEIS, is to ensure the public has an opportunity to comment on the DEIS after the missing data is made public.

The DEIS is legally insufficient and unless FERC withdraws and revises it with all required information, FERC's decision will be based on incomplete, inaccurate information and a flawed NEPA process, which jeopardizes the environment and HALT members' properties. HALT demands FERC immediately withdraw the DEIS until the missing data is supplied, revise the DEIS, and restart the public comment period at that time. At a minimum, if FERC refuses to withdraw the DEIS, it must extend the comment period for enough time to provide the public an opportunity to comment after all missing data is made available.

⁵ See, e.g., DEIS at 4-74 ("If the Commission decides to authorize the Project, the Certificate would grant PennEast the right to pursue access through eminent domain, at which time PennEast would complete the necessary remaining field surveys.").

⁶ 40 C.F.R. § 1500.1(b).

⁷ 40 C.F.R. § 1502.14.

⁸ 40 C.F.R. § 1500.1(b); 40 C.F.R. § 1506.6.



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Best regards,

A handwritten signature in blue ink, which appears to read "R. Steven Richardson".

R. Steven Richardson