



## Delaware River Basin Commission

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**Steven J. Tambini, P.E.**

Executive Director

September 12, 2016

### ***Via eFile***

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

**Re: PennEast Pipeline Project, FERC Docket No. CP15-558-000  
Comments on Draft Environmental Impact Statement**

Dear Ms. Bose:

Thank you for accepting these comments of the Delaware River Basin Commission (DRBC) on the Draft Environmental Impact Statement (Draft EIS) for the PennEast Pipeline Project, FERC Docket No. CP15-558-000. Our comments seek in part to correct errors in and improve the accuracy of the document's characterization of the DRBC and the purposes of its review, as set forth in sections 1.3 Permits, Approvals and Regulatory Requirements; 1.3.1 Federal Permits; and 1.3.1.7 Delaware River Basin Commission. An additional comment addresses multiple sections and/or tables addressing watershed impacts. Our comments are organized by DEIS section.

Section 1.3 Permits, Approvals and Regulatory Requirements: In Table 1.3-1, the DEIS identifies DRBC and its sister agency the Susquehanna River Basin Commission (SRBC) as "Watershed-Specific Regulatory Authorities" (Table 1.3-1, p. 1-10). To more closely align the DEIS terminology with that used in federal and state water resources legislation, this classification should be changed to "River Basin Commissions" (RBCs).

In the Permit/Approval column of Table 1.3-1, DRBC's actions are described as "Water Withdrawal Approval and Project Review." DRBC's review is actually a comprehensive review to ensure the project does not impair or conflict with DRBC's comprehensive plan (CP) for the immediate and long range development and use of the basin's water resources. For accuracy, the description should read, "Project Review, including Water Withdrawal Approval".

Sections 1.3.1 Federal Permits and 1.3.1.7 Delaware River Basin Commission: Permits issued by the DRBC and SRBC are not federal actions for purposes of the National Environmental Policy Act (NEPA), and it is important to avoid implying that they are. Accordingly, narrative sections 1.3.1.7 and 1.3.1.8, devoted to DRBC and SRBC respectively, are incorrectly placed within a section titled "Federal Permits." To avoid the suggestion that approvals issued by the two agencies constitute

federal actions, we ask FERC to change the heading of Section 1.3.1 to “Federal and Interstate-Federal Compact Commission Approvals” or “Federal Permits and Interstate-Federal River Basin Commission Approvals”.

Further, we note that with the exception of sections 1.3.7 “Delaware River Basin Commission” and 1.3.8 “Susquehanna River Basin Commission”, the subsections of Section 1.3.1 are named not by permitting agency but by the *federal statute* under which the permits are issued, for example, 1.3.1.2 “Clean Air Act”; 1.3.1.3 “Endangered Species Act”; etc. For consistency, sections 1.3.1.7 and 1.3.1.8 should be assigned the names of the respective RBC organic statutes – the “Delaware River Basin Compact” and the “Susquehanna River Basin Compact”.<sup>1</sup> Again, our purpose is to avoid the misleading impression that the two commissions are federal agencies.

Section 1.3.7 Delaware River Basin Commission. In addition to renaming this sub-section and Section 1.3 in accordance with the recommendations set forth above, we respectfully request that the narrative on page 1-13, the majority of which was derived from the Commission’s water withdrawal application form, be replaced with the following:

The Delaware River Basin Commission (DRBC) is an interstate and federal compact commission charged with comprehensive planning for the conservation, utilization, development, management and control of the water resources of the Delaware River Basin. DRBC has broad authority to implement programs, policies and projects by means of regional coordination, regulation and project review. Its regulations are set forth at 18 CFR parts 401 (Rules of Practice and Procedure, including thresholds for project review), 410 (incorporating by reference DRBC’s Water Quality Regulations and Water Code), 415 (Flood Plain Regulations) and 420 (Water Supply Charges).

Prior approval from the DRBC is required for natural gas transmission line projects involving, among other activities, the withdrawal and/or discharge of water or the diversion into or out of the basin of water in excess of project review thresholds; and when such a project traverses a recreation and/or reservoir area that has been incorporated into DRBC’s comprehensive plan. Review is intended to ensure that the project does not impair or conflict with the comprehensive plan, and includes ensuring the protection of DRBC-designated Special Protection Waters.

Multiple sections. DRBC appreciates that in accordance with our request during the EIS scoping process, the DEIS identifies all wetlands and waterbodies, including all river, stream and reservoir

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<sup>1</sup> As river basin commissions formed pursuant to the compact clause of the United States Constitution (Article 1, sec. 10., cl. 3), DRBC and SRBC were created by concurring federal and state legislation.

crossings, by river basin. Unfortunately, the DEIS does not include basin boundaries for purposes of assessing watershed impacts. PennEast has separately supplied DRBC with affected area acreages within the basin for land use categories identified in DEIS Table 4.7.1-1. In combination, the data provided in the DEIS and furnished separately by PennEast substantively satisfy DRBC's requests made in our letter dated April 23, 2015, signed by William J. Muszynski, commenting on the scope of the EIS. Considering the wide interest in this project from Delaware River Basin stakeholders, however, we recommend that the DEIS identify basin boundaries and basin names wherever possible.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. F. Najjar', with a large, stylized flourish at the end.

Kenneth F. Najjar, Ph.D., P.E.  
Director, Water Resource Management

c: DRBC Commissioners (*via email*)  
Medha Kochhar, FERC (*via email*)  
Alisa M. Lykens, FERC (*via email*)