

TOWNSHIP OF KINGWOOD

Environmental Commission Meeting:
Fourth Tuesday of Each Month – 7:30pm
Municipal Building:
Corner of Rt. 519 & Oak Grove Rd.
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Address Reply To:
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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street Northeast, Room 1A
Washington, DC 20426

Re: Docket CP15-558-000 – Proposed PennEast Pipeline Project
Draft EIS fails to identify vegetation, wildlife and threatened and endangered species

September 12, 2016

Dear Ms. Bose,

The Kingwood Township Environmental Commission is submitting these comments in opposition to the proposed PennEast Pipeline Docket CP15-558-000. Kingwood Township Environmental Commission is an intervenor in this matter and Kingwood Township is an impacted landowner on the proposed route. Both the construction and the long term functioning and maintenance of this pipeline would negatively impact our biological resources. It has been demonstrated that there is no need for this pipeline carrying an additional 1.1 million dekatherms per day year-round, which would displace existing sources. In fact, no residents of Kingwood are served by natural gas at all. Instead, we are in effect a net exporter of sustainable solar energy.¹ We can and do obtain our energy needs from other sources, but we do not agree that potential impacts to our biological resources are less-than-significant.

The draft Environmental Impact Statement (DEIS) released by FERC on July 22, 2016 does not accurately describe the biological resources or evaluate the potential impacts, therefore it does not fulfill FERC's NEPA obligation.

In the following comments, we have attempted to point out discrepancies, errors, unanswered questions and data gaps. However, the sheer volume of inadequacies and unfairly short comment period precludes us from being as comprehensive as we would like. For this reason, we request a second public comment period on a second draft EIS before FERC attempts to finalize the EIS.

The DEIS acknowledges multiple items that PennEast has not yet provided that are important in evaluating potential impacts and mitigation. These are catalogued elsewhere. Suffice it to say, that neither FERC nor the public can evaluate information that has not been submitted. Therefore where FERC asserts that there would be no impacts, this is not substantiated. **The DEIS should never have been submitted for public review before it without these items, and therefore must be re-submitted for another public review process before FERC releases the final EIS.**

DEIS Section 4.5.1 Vegetation, page 4-74:

Comment: Survey method plans or qualifications of PennEast’s biologists were requested for review, but never provided.

DEIS Section 4.5.1.1 Existing Vegetation Resources, Vegetative Communities of Special Concern page 4-74 to 4-75:

Comment: The hemlock forest ravine habitat of Nishisakawick Creek is one special community that is not mentioned in the DEIS.

DEIS Section 4.5.1.2 General Impacts and Mitigation, page 4-77

Comment: “Allowed to revegetate” is not a valid mitigation technique. Deer herbivory and invasive species would result in ecologically poor habitats for the foreseeable future. **Therefore, no reasonable scientist could conclude that impacts are “short-term”.** How long would it take to restore the ecological diversity, values and carbon sequestration of the impacted vegetation? Wood chip piles can be damaging to the soils and prevents revegetation. Increase in edge habitat does decrease the quality of forest habitat. Forest impacts can be avoided with the no-action alternative.

DEIS Section 4.5.2.1 Existing Wildlife Resources, Unique or Exemplary Wildlife Habitats, pages 4-84 to 4-86.

Comment: Kingwood Township has a number of recently preserved properties, and we have not yet had time to fully inventory and evaluate the biological resources. We know that our preserved lands, such as Horseshoe Bend Park East and Muddy Run Preserve encompass very good habitats, because that's why they were preserved. Horseshoe Bend Park East contains excellent forested habitat areas (away from the ROW). We know that Copper Creek, Little Nishisakawick, and the Lockatong are home to threatened long-tailed salamanders. We know that Muddy Run Preserve contains numerous vernal pools and that some of our parks contain S1 Missouri gooseberry plants. The rare gray comma butterfly, which relies on this host plant, has been encountered in Muddy Run and in Horseshoe Bend Park. We know that some of our publicly and privately owned lands provide nesting habitats for special bird species. While we don’t yet have enough information to determine if these are “unique or exemplary wildlife habitats,” neither does PennEast have documentation in the negative.

DEIS Section 4.5.2.2 General Impacts and Mitigation, pages 4-86 to 4-87: *“Direct impacts on wildlife during construction could include the displacement of wildlife from the Project area, as well as direct mortality of some individuals.”*

Comment: This statement only touches on the potential impacts (inadequately, since PennEast has not even completed inventories or submitted various reports and plans) to wildlife and does not address the issue of permanent impacts due damage or loss of the ecological functions of habitats. Indirect impacts on wildlife populations would result through habitat alteration for the temporary and permanent ROW. Long-term habitat impacts would result from permanent changes in vegetation structure, including forests converted to cleared ROW, increasing edge habitat favored by deer and creating pathways for invasive species

DEIS Section 4.5.2.2 General Impacts and Mitigation, page 4-87: *“Forest fragmentation caused by the new right-of-way can have negative effects on forest dwelling species (e.g., causing*

individuals to crowd into remaining patches of habitat) while it can have beneficial affects to species that thrive in edge habitats.... In extreme situations, the habitat openings can inhibit movement by certain wildlife species across the right-of-way (e.g., interior forest dependent species may not travel though the open habitat that would be found on the right-of-way)."

Comment: Forest fragmentation negatively impacts species that require large intact forest habitats, which is already too scarce and becoming scarcer due to the cumulative impacts of multiple pipeline projects. Furthermore, it is unclear what is meant by the statement that "in extreme situations" wildlife might hesitate to cross the pipeline ROW. Does the ROW create this extreme condition, and if so, for which species? **The cumulative impacts of multiple pipeline projects on forest fragmentation and increased edge habitats lead to increased deer populations, and the economic and ecological impacts of deer are well documented and should be included in the evaluation of cumulative impacts of this proposed project.**

DEIS Section 4.5.2.2 General Impacts and Mitigation, page 4-90: *"Where disturbance is necessary...."*

Comment: No disturbance is necessary with the no-action alternative.

DEIS Section 4.5.2.2 General Impacts and Mitigation, page 4-90 to 4-91: *"Minimize land and vegetation disturbance during Project design and construction."*

Comment: There is no factual evidence presented to support the statement that the project was designed with proactive standards for minimization of land and vegetation disturbance. Collocation is meaningless, since it simply widens the impacted ROW corridors. Since construction plans are not available, it is impossible to evaluate the veracity of the claim that construction would minimize land and vegetation disturbance.

DEIS Section 4.5.2.2 General Impacts and Mitigation, page a4-91: *"Avoid permanent habitat alterations in areas where birds are highly concentrated."*

Comment: There is no factual evidence presented to support the statement that the project was designed with proactive standards for to minimize impacts to bird habitats. Since construction plans are not available, it is impossible to evaluate the veracity of the claim that construction would impacts to bird habitats.

DEIS Section 4.5.2.2 General Impacts and Mitigation, page 4-91: *Conserve area-sensitive species, avoid fragmenting large, contiguous tracts of wildlife habitat, especially if habitat cannot be fully restored after construction."*

Comment: There is no factual evidence presented to support the statement that the project was designed with proactive standards for to conserve area-sensitive species, and to avoid fragmenting large, contiguous tracts of wildlife habitat. Since construction plans are not available, it is impossible to evaluate the veracity of the claim that construction would conserve area-sensitive species, and to avoid fragmenting large, contiguous tracts of wildlife habitat.

DEIS Section 4.5.2.2 General Impacts and Mitigation, page 4-91: *"Develop a habitat restoration plan..."*

Comment: Since a habitat restoration plan is not available, it is impossible to evaluate it.

DEIS Section 4.5.2.2 General Impacts and Mitigation, page 4-91: *“Based on the measures described above, as well as the ongoing consultation with the FWS (see our recommendation above for PennEast to work with the FWS to develop a Migratory Bird Conservation Plan) we believe that the Project would be in compliance with the MBTA and the BGEPA.”*

Comment: We found that the multiple “route variations” were based on inconsistent standards (e.g. more wetlands impacted here, less there; more forests here, less there), and that none of these were based on objective evaluations of habitat quality. There is no factual evidence presented to support the statement that the project was designed with proactive standards for resource protection. Since most of this information is either missing, incomplete or not backed up with facts and research, no broad conclusion can be made about the project’s compliance with the MBTA and the BGEPA.

DEIS Section 4.6.2 State-listed Species and State Species of Concern, 4.6.2.11 Long-Tailed Salamander, page 4-112: *“Long-tailed salamanders were identified by the NJDEP-NHP as potentially occurring within the Project area in Northampton and Mercer counties, New Jersey. Field surveys conducted by PennEast discovered one wetland with a spring seep that could support this species. The NJDEP has recommended that wetland areas that could support this species be crossed via and HDD methods in order to avoid impacts on this species and its habitat. Because suitable habitats for this species likely occurs in the Project area and the Project’s construction and operation could impact this species, we recommend that PennEast continue to work with the applicable wildlife agencies to determine where HDD methods are appropriate for avoiding impacts on this species as well as to any develop an additional appropriate mitigation measures that may be necessary (see section 4.6.2.25).”*

Long-tailed salamanders have been documented in Nishisakawick, Little Nishisakawick, Copper, Lockatong and Wickecheoke Creeks. All except Copper Creek are C1 streams. In Kingwood, they inhabit cold clean streams with rocky streambanks.² It is quite inexplicable why PennEast, after receiving this information from the New Jersey Natural Heritage Program, would neither look in Hunterdon County or in the correct habitat where the long-tailed salamanders would be found. Although it is stated that NJDEP plans to require HDD in streams supporting this threatened species, so far, PennEast only plans for HDD to cross the Lockatong. Is it even technically feasible to cross the extremely steep stream corridors of the other streams? Is it technically feasible to do so without causing even worse environmental impacts?

DEIS Section 4.6.2.24 State Listed Plant Species, page 4-117:

It is quite inexplicable why PennEast would look only for three special plant species, when there are literally hundreds that could occur in Hunterdon and Mercer Counties. One might reasonable conclude, based on the scant paragraph the DEIS devotes to the topic, that they didn’t try very hard to inventory special plants or to evaluate any mitigation or avoidance measure to protect them. The mitigation measures mentioned may have been implemented elsewhere, but it has not been documented that any of these techniques was successful.

NEPA requires inventory of all potentially impacted resources, therefore the DEIS has not met the requirements of NEPA.

The information contained within the draft EIS does not support the conclusion that the impacts of the proposed PennEast pipeline project on biological resources would be negligible.

The information contained within the draft EIS does not support the conclusion that all impacts on biological resources could be mitigated to less-than-significant levels.

Thank you for your full consideration of Kingwood Township's comments.

Sincerely,

The Kingwood Township Environmental Commission

Cc:

Congressman Leonard Lance
Senator Robert Menendez
Senator Cory Booker
Senator Michael J. Doherty
Assemblyman John DiMaio
Assemblyman Erik Peterson
Hunterdon County Freeholders

References

¹ Kingwood Township Environmental Commission. 09/25/2015. *Comment of Kingwood Township Environmental Commission on Resource Reports 1, 4, 5, and 10 under PF15-1*. Submittal 20150925-5008 to FERC DOCKET PF15-1. <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=13995592>

² NatureServ.org. Longtail Salamander. http://explorer.natureserve.org/servlet/NatureServe?loadTemplate=tabular_report.wmt&paging=home&save=all&sourceTemplate=reviewMiddle.wmt, accessed 9/12/2016.