

BAMBOO BROOK
170 LONGVIEW ROAD
FAR HILLS, NJ 07931
908-234-1225
908-234-1189 (FAX)
info@njconservation.org
www.njconservation.org



February 22, 2016

Docket No. CP15-558-000

PennEast Pipeline Project

New Jersey Conservation Foundation's Technical Comments on FERC's Environmental Information requests to PennEast, dated February 10, 2016 and November 24, 2015, and PennEast's response of December 14, 2015.

PennEast fails to fully respond to FERC'S requests

A number of the information requests in FERC's February 10, 2016 document are reiterations of requests made by FERC on November 24, 2015. This proves once again that PennEast's response of 12/14/2015 was clearly inadequate and incomplete. PennEast has yet to provide enough information to complete a rigorous DEIS. Without a complete response and information we strongly request that FERC immediately suspend review of PennEast's application. In a letter October 28, 2015, the NJ Department of Environmental Protection (NJDEP), cautions that "before an applicant submits this kind of large scale project" requiring numerous permits, both the applicant and FERC must demonstrate the need for the project. If this need is established "viable alternate routes must be explored prior to advancing the EIS ..." PennEast has neither established the public need for this project, nor seriously explored alternative routes. The NJ Conservation Foundation plans to file substantive comments on this point, and in answer to PennEast's proposed Answer, under separate cover.

The NJDEP also calls for a rigorous alternatives analysis, one which would include using current roadways as well as the no-build alternative. Under NEPA, the alternatives analysis must also include data from which FERC can evaluate other options to meet identified needs, including renewable energy and energy efficiency measures. PennEast still has not provided data that could support a meaningful or comprehensive alternatives analysis. The NJ Conservation Foundation plans to file substantive comments on this point, and in answer response to PennEast's proposed Answer, under separate cover.

In both documents, FERC asks PennEast to address voluminous correspondence from NJ Natural Lands Trust(NJNLT). As early as March 2015, NJNLT requested PennEast to explore alternatives to the current route which would cross the Gravel Hill Preserve and Project Area in Holland Township. These properties are a critical habitat for many threatened and endangered species and high priorities for the citizens of New Jersey. NJNLT even went so far as to sketch out alternative routes for PennEast, which PennEast has continued to ignore. In FERC's February 10, 2016 request, they ask PennEast for the second time to explore this alternative and provide an engineering and environmental analysis of the alternative. PennEast's only response to these detailed requests in their December 14 document was that they "...are engaged in ongoing consultations with the Natural Lands Trust..." These consultations are not satisfactory if FERC had to ask PennEast to address this issue a second time.

Stream impacts still not addressed by PennEast

In its response to FERC's Environmental Information Request, PennEast repeatedly avoids addressing the fact that the proposed pipeline would cross 49 C-1 designated streams in New Jersey. These waters have received this designation because they are of the highest resource value, and provide habitat to threatened and endangered species. Many experts believe and are on record stating that there is no practicable way to cross these C1 designated streams without degrading their water quality and causing irreparable impact.

The draft environmental impact statement (DEIS) must include a stream-by-stream analysis of the species and water quality impacts of the proposed C-1 crossings. Currently, according to both FERC and NJDEP, PennEast has not provided the information that would be necessary for such a study. Such information would need to be obtained through on the ground field investigation, and cannot be based on desk-top or aerial data.

NJ DEP notes "...trenched crossings will likely result in adverse impacts to state listed species and subsequently result in potential permitting issues at the State level...Department geologists have suggested that directional drilling may be problematic at these and various other locations along the proposed ROW. We urge FERC to require PennEast to address this concern and provide documentation that fully assesses whether directional drilling is a practical and feasible option..." PennEast does not address this comment.

In Data Request # 27, FERC asks PennEast to "provide a description of any waterbody construction or restoration measures proposed for the crossing of streams designated as C-1 in New Jersey". PennEast responds that construction and restoration will follow NJ Laws and regulations. They do not provide actual descriptions or plans explaining how they will or can comply with state laws and regulations, nor how they will prevent degradation of 49 C-1 streams. They provide no evidence or data, no mitigation plans, no channel construction plans, no boring plans, no excavation plans, no restoration plans, no planting plans, no monitoring plans, no data or mapping regarding threatened and endangered species. We strongly urge FERC to suspend review of the PennEast application until all of the necessary data and analysis are completed and submitted.

Horizontal directional drilling (HDD) is sometimes mentioned as a way to minimize negative impacts to environmental resources. PennEast only proposes using it 10 times in New Jersey. Of the 49 C-1 stream crossings, HDD is proposed for only 4 crossings and BORE for 4 crossings. The remaining 41 C-1 crossings will use dry crossings. HDD should be required for all C-1 stream crossings. In order to use HDD, extensive geological, boring, construction and blasting studies and plans are necessary. See below for New Jersey Geological and Water Survey's (NJGWS) concerns regarding the lack of geotechnical information that PennEast has provided FERC and NJ DEP. NJGWS comments regarding these issues have not been addressed by PennEast.

This is particularly disturbing since attempts to use HDD on the Transco Leidy line have failed, resulting in an attempt by Transco to seek major modifications to their NJDEP permits. The proposed modifications, if permitted, would result in serious negative impacts to critical wetlands habitat. Before HDD is accepted as a viable methodology, it should be thoroughly studied to make sure it is feasible. The geology where Transco's HDD failed is very similar to the geology underlying much of the PennEast route. If HDD is not viable for C-1 stream crossings, the ability of the proposed pipeline to meet water quality standards for C-1 waterways and avoid serious damage is likely impossible.

PennEast submissions lack adequate studies, plans and data, and contain numerous inconsistencies and inaccuracies

PennEast has thus far refused to provide complete information and has not addressed FERC's and NJDEP's comments and requests for information from NJ Geological and Water Survey comments, which extend to 7 pages in their October 28, 2015 letter. NJGWS is justifiably concerned that PennEast's filings do not include

geotechnical assessments. According to NJGWS, the seismic hazard analysis, quarry blasting study, arsenic risk assessment, karst hazard study and geotechnical horizontal directional feasibility study included in the resource reports contain little or no data. PennEast has only one response to the 25 comments of the NJGWS letter. NJGWS states that there is inaccurate information about NJ geology in section 2.2.1.2, as well as mischaracterization of the hydrogeology of the Newark basin (which makes up nearly 90% of the project area) in Section 2.2.5. In their comments on Section 6.1.1, NJGWS quotes the resource report as stating "...USGS mapping, included in appendix D indicates..." Yet NJGWS continues that " there are no references of any USGS geological maps in Appendix D. Please note that USGS never mapped or published any geologic mapping of many of the detailed areas shown. PennEast should cite the specific publication and properly reference any maps they use, not general statements of government agencies."

There are many discrepancies between resource report 6 and its appendices according to NJGWS. Referring to Section 6.1.3 Geological investigation of Horizontal Directional Drill Crossings, NJGWS states "The report indicates that geological investigations of 10 HDD crossings are complete or ongoing as of September 2015. Appendix O, Part A indicates that only 2 of 10 drill sites have geotechnical reports that are nearly complete while the remaining sites are not started or awaiting access for some or all of the borings. For the sites in NJ there is no specific information that can be reviewed."

The fact that PennEast addresses only one comment in NJGWS's 7 pages of comments demonstrates once again that the company is inadequately addressing data gaps in its application, and persists in advancing incomplete information. PennEast completely ignores the valuable insights and data gaps helpfully detailed in NJGWS comments. NJ Conservation Foundation again urges FERC to suspend review of PennEast's application, and postpone the DEIS until such time as PennEast submits a complete application with accurate information.

Minimal surveying leaves glaring data gaps

Survey access continues to be a problem for PennEast, especially in New Jersey. The Endangered and Non-game Species Program repeatedly comments that PennEast's survey efforts do not meet ESPN requirements, and that their consultants and survey protocols have not been adequately vetted. In New Jersey, PennEast has only surveyed 13 parcels for important species. There are potentially 500 parcels that will need surveying.

Survey opportunities are limited for many species and habitat types. The NJ DEP's November 4, 2015 letter states "*PennEast has proposed that construction of this pipeline begin in February 2017 and be completed in November 2017. This proposed construction schedule does not, at this time, appear to be attainable...*" PennEast responds "*Acknowledged. PennEast will continue to evaluate schedule and timing restrictions as the project advances.*" Attachment 7, p.10. In fact, in order to protect grassland birds, Kestrels and Long Tailed Salamanders, all of which are documented along the proposed route, tree clearing and "in- water " work are only permitted in October and November. There are also timing restrictions for bats, owls, trout and wood turtle. There are some habitats along the proposed route that will have timing restrictions in place all year long.

PennEast has not provided the information necessary to allow for a proper evaluation of the proposed project

The NJ DEP and FERC cannot fully evaluate or base any findings or permits for this project on desktop surveys. FERC must require PennEast to collect the data and produce the complete and accurate reports needed to evaluate the project.

FERC should require the following additional data and analysis:

- Stream by stream analysis
- Geo-technical analysis
- Analysis of HDD for all C-1 stream crossings
- Construction plans

- Avoidance plans for cultural, natural, open space and agricultural resources
- Other items noted in November 24, 2015 letter that PennEast has failed to address.

Important requests FERC has made which continue to go unanswered by PennEast:

- Mitigation plans
- Reforestation plans
- Riparian area restoration plans
- Updated list of parklands, preserves and sanctuary lands. FERC asks that they be identified by milepost, and that mitigation and minimization plans to reduce impacts to visitors be provided.

In conclusion, NJ Conservation Foundation reiterates the request to FERC that we made jointly with the Stony Brook Millstone Watershed Association in a letter dated January 21, 2016, submitted on our behalf by the Eastern Environmental Law Center, and Columbia University Environmental Law Clinic. We urge FERC to suspend the NEPA review of the proposed PennEast pipeline until PennEast responds fully and completely to FERC's important and appropriate requests made in the letters dated November 24, 2015, and February 10, 2016.

PennEast has failed to adequately respond to FERC's requests, including missing the 10-day deadline to respond to FERC's letter dated February 10, 2015. As FERC has noted, this information is prerequisite to the preparation of a draft environmental impact study, and thus that process should not move forward in its absence.

Please contact Tom Gilbert, Campaign Director- Energy, Climate & Natural Resources, New Jersey Conservation Foundation at 908-234-1225 ext. 305 with any questions.