

TOWNSHIP OF KINGWOOD

Committee Meeting:
First Thursday of Each Month – 7pm
Municipal Building:
Corner of Rt. 519 & Oak Grove Rd.
Fax: (908) 996-7753



Address Reply To:
Mary E. MacConnell, RMC
P.O. Box 199
Baptistown, NJ 08803-0199
Phone (908)996-4276 x 221

July 13, 2016

 ORIGINAL

CP15-558

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

Ms. Grace Ziesing, Senior Archaeologist
URS Corporation
625 West Ridge Pike, Suite E-100
Conshohocken, PA 19428

FILED
SECRETARY OF THE
COMMISSION
2016 JUL 18 P 2:43
FEDERAL ENERGY
REGULATORY COMMISSION

RE: Response to PennEast Pipeline Company, LLC's FERC Process Participation Request
Dated March 11, 2016

Dear Ms. Bose and Ms. Ziesing:

We have received URS Corporation's March 11, 2016 letter requesting Kingwood Township's participation in the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) process for the PennEast project as an "interested party". That letter ignores the law. As mandated by the National Historic Preservation Act (16 U.S.C. § 470 et seq.), the Township has the right to participate as a "consulting party" for the PennEast project.

Under NHPA regulations, "the representative of a local government with jurisdiction over the area in which the effects of undertaking may occur is *entitled* to participate as a *consulting party*." 36 C.F.R. § 800.2 (emphasis added). Kingwood Township is a local government as defined by the regulations, and the Township is the representative for NHPA consultation purposes. Therefore, the Township has a right to consulting party status and does not accept the legally insufficient "interested party" status.

As a mandatory consulting party, the Township has the right to review and consult on PennEast's factual findings during the NEPA process. This includes findings related to the identification of impacted historic sites, the calculation of the level of adverse impacts, and the determination that impacts can be mitigated. 36 C.F.R. § 800.8. The Township is aware that PennEast has already conducted some archaeological field surveys, yet the reports documenting these surveys were not provided to the Township. As a mandatory consulting party the Township has a right to review

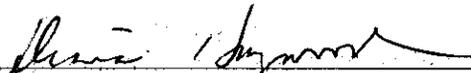
and comment on these reports. The Township requests PennEast provide a copy of all previous reports and that PennEast continue providing future reports as soon as they are prepared.

The Township asks that FERC and PennEast immediately recognize its status as a consulting party and provide all relevant documentation for the Township's review. Failure to do so would violate NHPA's requirements. Under the regulations a consulting party must be involved beginning "at the early stages of the project planning" so the party can fully consult on all stages from identifying historic sites, conducting surveys of those sites, and mitigating impacts. 36 C.F.R. § 800.1 *et seq.* FERC has already substantially delayed recognition of the Township as a "consulting party" until very late in the NEPA process, in direct contradiction to the NHPA regulations' mandate.

Because FERC and PennEast failed to involve the Township at the early stages, and the latest archaeological survey report was provided to the NJHPO but not the Township, six months ago, we have been deprived of involvement in important NHPA stages, in violation of our rights as a consulting party. If we had been involved at the beginning of the NHPA process, we would have had more than a year to review and consult on PennEast's findings as they were released. Since our involvement has been needlessly delayed until nearly two years after the NJHPO began its consultation, we insist that we be given at least six months to review and comment on any reports that have been completed before any DEIS is issued that evaluates potential effects on historic properties. No lesser amount of time would meet FERC's mandate under the Section 106 process: to "ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking". And even this length of time is less than we would have received if we had been properly consulted "at the early stages of planning". 36 C.F.R. § 800.1. Failure to grant us adequate time to review and comment would prevent both FERC and us from fully meeting the purposes and requirements of NHPA consultation.

Sincerely,

KINGWOOD TOWNSHIP COMMITTEE


 Diana Haywood, Mayor

cc: Jeff England, UGI
 Bernard Holcomb, URS
 Daniel D. Saunders, NJHPO
 John Eddins, ACHP

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July 13, 2016

Mr. Daniel D. Saunders
Deputy State Historic Preservation Officer
New Jersey Historic Preservation Office
P.O. Box 420
Trenton, NJ 08625

RE: Failure of FERC and PennEast Pipeline Company, LLC to Grant Consulting Party Status
FERC Docket No. CP-15-558.

Dear Mr. Saunders:

Even though the New Jersey Historic Preservation Office has been consulting on the PennEast Pipeline Project since September 2014, Kingwood Township still has not been granted its right to participate as a consulting party in the project's National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) processes. As you know, under NHPA regulations, "the representative of a local government with jurisdiction over the area in which the effects of undertaking may occur is *entitled* to participate as a consulting party". 36 C.F.R. § 800.2. Kingwood Township is a local government as defined by the regulations and the Township is the representative for NHPA consultation purposes. Therefore, the Township has a right to consulting party status and will not accept PennEast's offer to participate as an "interested party" only.

As a consulting party, the Township has the right to review and consult on PennEast's factual findings during the NEPA process. Under the NHPA regulations, a consulting party must be involved beginning "at the early stages of the project planning" so the party can fully consult on all stages from identifying historic sites, conducting surveys of those sites, and mitigating impacts. 36 C.F.R. § 800.1 et seq. However, more than a year and a half after NJHPO started consulting on the PennEast project, FERC still has not involved the Township as a consulting party. It therefore has been denied its right to consult for more than a year. Not until March 2016 did PennEast reach out to the Township about the project, at which point it only offered the Township an opportunity to participate as an "interested party". PennEast continues to refuse the Township's right to consulting party status and its right to review and comment on archaeological survey reports as these important undertakings are released. This failure violates the Township's rights and violates NHPA regulations.

The Township requests that your office take any actions within its authority to ensure FERC and PennEast immediately recognize the Township's status as a consulting party, provide the Township with all relevant reports for review, and provide the Township with the same amount of time to review all reports prior to release of the DEIS that the Township would have received had FERC properly recognized our "consulting party" status at the early stages of project review. Only through such consultation can FERC fulfill its obligation to ensure that "a broad range of alternatives may be considered". See 36 C.F.R. 800.1 ("The agency official shall ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.").

Thank you for your attention to this matter.

Sincerely,

KINGWOOD TOWNSHIP COMMITTEE



Diana Haywood, Mayor

cc: John Eddins, ACHP
Kimberly Bose, FERC ✓
Grace Ziesing, URS
Jeff England, UGI

Document Content(s)

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