August 8, 2012

Ms. Jill Neall

Environmental Specialist III

New Jersey Department of Environmental Protection

Division of Land Use Regulation

P.O Box 439

Trenton, NJ 08625

Re: Transcontinental Gas Pipeline Company, Northeast Supply Link Project, Stanton Loop

 Freshwater Wetlands Individual Permit 1000-11-0003.1, FWW 120001

Flood Hazard Area Individual Permit with Hardship Exemption 1000-11-0003.1, FHA 120001

Dear Ms. Neall,

The Transcontinental Gas Pipeline Company’s (Transco) Northeast Supply Link project will have significant impacts on important environmental resources that are regulated under the Freshwater Wetlands (FWW) and Flood Hazard Area (FHA) regulations. The Stanton Loop traverses the Southern Highlands including important wetland areas, stream buffers and the watersheds of two of New Jersey’s largest water supply reservoirs, Spruce Run and Round Valley. This project would sacrifice the natural resources of the region to increase our dependence on fossil fuels. This project is not in the public interest and we urge you to deny Transco’s application for Individual Permits and a hardship exception under the FWW and FHA regulations.

*Improper Segmentation*

We are concerned that the Department is reviewing the individual components of this project separately instead of looking at the pipeline project in its entirety. Accepting separate applications for the Stanton Loop and the Roseland compressor station would require DEP to take actions that would be in violation of the applicable law and that is why the project must be dismissed. Under the Freshwater Wetlands Rules for individual permits at NJ.A.C. 7:7A-7.I(c) an application for a single project is not allowed to be segmented into separate portions, *"Each individual permit applies to the entire site upon which permitted activities occur ... an applicant shall not segment a project or its impacts by separately applying for individual permits for different portions of the same project'.*

With regard to the Transco project, DEP is reviewing and drafting separate permits for the Roseland compressor station and the Stanton Loop. As the Freshwater Wetlands regulations requires the Department to determine if there is a public benefit or need for the project in part by weighing the impacts to natural resources, looking at the different components of the Northeast Supply Link project separately undermines the proper evaluation of all the foreseeable impacts of the project and the determination of public benefit by the Department. A legally sufficient review mandates that DEP look at this project as a whole, and not with the currently contemplated, segmented process.

*Viable Alternative Analysis*

The Freshwater Wetlands rules clearly state that an individual freshwater wetlands permit will not be issued if there is a viable alternative to the project. N.J.A.C. 7:7A-7.2(b)1. The Federal Energy Regulatory Commission (FERC) is currently completing an environmental review of the project to determine if practicable alternatives exist. In that process they are continuing to examine in which areas horizontal directional drilling can be used to avoid unnecessary impacts to sensitive wetlands. We urge the Department to delay action on these permits until all alternatives have been examined at the federal level.

We also request that the DEP prepare an independent alternatives analysis that does not depend solely on the data provided by the applicant and its consultants. An independent review by the DEP will ensure that the protection of our wetlands and key surface waters serving as drinking water supplies are placed before, not after, cost considerations. This alternative analysis should include an evaluation of locating the pipeline expansion alongside existing roadways as an alternative to the current proposed route through more pristine and ecological sensitive areas.

*Threatened and Endangered Species*

We do not believe this project meets the Freshwater Wetlands Act’s protections for threatened and endangered species. The regulations require that a project, “[w]ill not destroy, jeopardize or adversely modify a present or documented habitat for threatened and endangered species.” (N.J.A.C. 7:7A-7.2(b)3) Although some measures have been proposed to minimize impacts to some critical species, as detailed below this project will degrade and adversely modify known habitat for bog turtles. The bog turtle was listed by New Jersey as an endangered species in 1974 and as a threatened species by the federal Fish and Wildlife Service in 1997. Given that habitat loss is one of the primary factors in its population decline in New Jersey, it is of paramount importance that the project’s impact on bog turtle habitat be sharply mitigated. Unfortunately, the project as currently proposed fails to take these needed steps.

Transco is proposing to use an open cut in known bog turtle habitat, exceptional resource value wetland W-ST-12-002, thereby significantly impacting 1.4 acres on the site. At the federal level, no restrictions have been implemented on limiting construction to the non-active season of the turtles. The only limitation has been on clearing. As horizontal directional drilling (HDD) cannot be used on this site, the excavation for the pipeline will directly impact a federally threatened and state endangered species and the DEP should reject these permits to ensure the protection of these critical habitat wetlands.

The Direct Pipe method is being proposed by US Fish and Wildlife for a crossing of federally threatened species habitat on the Palmerton Loop of the project. This method would eliminate the need for additional workspace adjacent to the ROW in the wetlands complex and the possibility of bentonite clays entering the waterways. Why is this method not being proposed for the crossing of bog turtle habitat on the Stanton Loop?

If DEP does permit this project, we urge the Department to require a performance bond for areas of known critical habitat. The bond would be returned to the applicant after the applicant’s mitigation measures are completed and Transco has documented the successful re-establishment of the critical species in the area impacted by the project construction.

*Water Quality Standards*

The Freshwater Wetlands regulations require that the project, “[w]ill not cause or contribute to a violation of any applicable State water quality standard.” (N.J.A.C. 7:7A-7.2(b)5) The Stanton Loop crosses three Category-One (C-1) waterways, unnamed tributaries of the Grandin Stream. These water bodies have an anti-degradation surface water standard, meaning these waterbodies are protected from any measurable change to water quality. If wet crossings are proposed at these sites, we do not believe that anti-degradation standard can be met. The project will also impact 13 wetland areas that feed into the Grandin Stream and its unnamed tributaries. Loss of vegetative cover and soil compaction in these areas will directly affect the water quality in the adjacent C-1 waterbodies, potentially violating the anti-degradation standard.

In the past, we have seen erosion control measures fail at various construction sites, including gas pipeline installations. We are especially concerned as pipeline construction activity will be conducted around the South Branch of the Raritan River, a major source of drinking water for New Jersey residents. We have seen erosion controls on pipeline construction sites fail even though they met the Soil Erosion and Sediment Control Standards (SESCS) and followed Best Management Practices. The Tennessee Gas Pipeline’s 300 Line Project received DEP violations citations due to impacts to Lake Lookover in West Milford from erosion and sedimentation. The SESCS standards cannot ensure that similar impacts do not occur to the South Branch.

Under erosion control Best Management Practices, sedimentation can be controlled and reduced by 50% in flat areas. However, significant impact reductions cannot be achieved in areas with seasonally high water tables and steep slopes, resulting in a violation of the surface water quality standards. Therefore, we strongly urge the DEP to withhold the permits due to the high probability that the environmental conditions will preclude sedimentation control.

Transco is classifying all sedimentation impacts as temporary, arguing that the majority of waterbodies that would be impacted by the Stanton Loop depend on riparian detritus. They therefore limit mitigation measures to silt fences, straw bales, equipment bridges, and slope breakers. However these sedimentation impacts will not be temporary as the company fails to present a viable re-vegetation and invasive species management plan. The company states multiple times that the area will be allowed to re-vegetate naturally, but does not address the strong likelihood that “natural revegetation” will consist primarily of non-native invasive species. Measures to address deer herbivory, runoff from storms prior to revegetation, times of drought, or protocol to be implemented during severe weather events (such as a hurricane) are not included in the application. Deer fencing must be required in the areas to be re-vegetated to ensure that native plant populations become established.

The right-of-way (ROW) will only be monitored for three to five years following the end of construction; long term erosion and sedimentation issues will not be addressed. Transco will cease site monitoring once the vegetative cover in the workspaces resembles the vegetative cover in adjacent, “non-disturbed” areas. We have serious objections to the use of this standard to end monitoring procedures as their construction work and vegetative removal will likely, if not introduce, at least encourage the spread of existing invasive species populations. Invasive species often have more shallow root systems than native plants and, therefore, will contribute to an increase in long-term erosion impacts in stream buffers and wetland areas that are used as workspaces for this project. Because of this, the company should be required to minimize invasive species populations in their re-vegetation areas to the maximum extent practicable.

Further mitigation measures to reverse soil compaction are also not addressed. Loss of vegetative cover and compaction of soil will impact infiltration and aquifer recharge, creating more runoff that can erode soils and impact surface waters and cause potentially more flooding. Soil compaction could alter the sub-surface hydrology and, as 18 of the wetlands impacted are directly adjacent to waterbodies, could lower base flows.

*Public Interest Issues*

The Freshwater Wetlands regulations require that a project be in the public interest for an individual permit to be issued (N.J.A.C. 7:7A-7.2(b)12). For many reasons, the proposed project does not serve public interests and, instead, will have a detrimental impact on the ecology and general health and welfare of local communities.

The Stanton Loop does not promote the preservation of natural resources; instead it will encourage significant negative impacts to important waterways, critical habitat, wetlands and forests. The Stanton Loop is located in areas that are listed under the 2001 State Plan as Fringe Planning Area (PA3), Environmentally Sensitive Planning Area (PA5) and Rural Environmentally Sensitive Planning Area (PA4b). These areas should be protected from impacts, not slated for major infrastructure projects.

Most troubling is that the project could have direct impacts on drinking water supplies. The pipeline will be within 150 feet of headwaters for the New Jersey Water Supply Authority water supply as there is a surface water intake on the South Branch of the Raritan River less than one mile downstream of the proposed Stanton Loop crossing. Transco is proposing to minimize the impacts to the South Branch by using horizontal directional drilling, but we are concerned that if drilling lubricants were to come to the surface or leak in the process, it would have significant impacts on the water supply for over 1 million New Jersey residents. In addition, the bentonite clays in the drill lubricant could muddy the water with fine particles impacting macroinvertbrates and plant life, and possibly causing fish kills.

The DEP must also consider the public and private need for the service the pipeline would provide. Natural gas prices are currently at their lowest point in decades due to an oversupply of gas and declining customer demand. In April, natural gas futures hit their lowest point, $2.02, and analysts project that the price could go down to $1 or below. The falling prices are driven by an oversupply of gas without increasing demand. Increasing the infrastructure to move gas for which there is stagnant, even dwindling, demand does not meet a public or private need.

In determining if the project meets the public interest, the DEP must also look at the resource value of the wetlands which would be impacted. Of the 22 wetlands crossed by this project only one is of ordinary resource value; the rest are intermediate or exceptional. The exceptional resource value wetland, W-ST-12-002, contains habitat for the federally threatened bog turtle. This is one of the 13 wetlands adjacent to Category One waterways, the Grandin stream and its unnamed tributaries, that will be significantly impacted by this project. The three unnamed tributaries also serve as the headwaters of Grandin stream, the destruction of which would have devastating impacts for downstream habitats and uses. Also of the 22 wetlands, 18 are directly adjacent to a waterbody, meaning that loss of vegetative cover, compaction, and erosion in these wetlands will also directly impact those waterbodies. 10.26 acres of wetlands would be directly impacted.

*Requirements for All Regulated Activities*

The concerns expressed above about soil compaction, successful implementation of erosion controls, re-establishment of vegetative communities especially in wetlands and stream buffers areas, and impacts to the South Branch of the Raritan River, a drinking water source, also demonstrate that this permit application has not met the statutory requirements at N.J.A.C. 7:13-11.1, which lays out a list of factors that state agencies must consider when issuing individual permits (see N.J.A.C. 7:13-11.1(b)). This project must not receive a FHA individual permit as this project will result in permanent significant and adverse impacts to water quality and supply, drainage and the soil’s hydrological patterns, channel stability, threatened and endangered species and other aquatic biota, and flooding. Transco reports some of these permanent impacts to stream channels and buffer zones in Appendix 2G of Resource Report 2 submitted to FERC. Transco reports that many of the waterbodies along the Stanton Loop “appear to have been previously modified during construction of previous pipelines” resulting in straightened and incised channels in the existing right-of-way. This has resulted in a “natural state upstream of the ROW, while downstream portions often showed signs of impairment.” The company then lowered the Stream Visual Assessment Protocol (SVAP) scores for waterbodies along the Stanton Loop based on the damage resulting from their previous projects. Permitting an additional pipeline and expansion of the right-of-way across these stream buffers and vegetative areas will only increase already existing impairment impacts, violating N.J.A.C. 7:13-11.1.

*Hardship Exemption is Unwarranted*

A hardship waiver should not be granted to exempt this project from these provisions because this project involves a significant amount of activity outside of the applicant’s right-of-way (ROW) that is being utilized for the convenience of the applicant, resulting in significant environmental impacts that it is the Department’s responsibility to protect with diligence.

Transco must not be granted an exemption from the Stormwater Management Rules requirements for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity pursuant to N.J.A.C. 7:8-5.2(d)2. Existing onsite conditions will be permanently and significantly changed as a result of installing a new pipeline and expanding their existing ROW. No mitigation has been proposed to address compaction issues which will impact groundwater recharge capabilities and the quality and quantity of stormwater runoff. Replacing topsoil in wetland areas is a short-sighted plan that does not address the compaction in sub-layers that will prevent percolation of groundwater and affect the wetlands. The applicant does acknowledge erosion and sedimentation impacts will result from construction activities but again offers mitigation and minimization techniques that are insufficient, mainly silt fencing and hay bale barriers. This project will require extensive excavation in sensitive areas and storage of hundreds of thousands of tons of soil in areas adjacent to wetlands and waterbodies. The scope of construction activities and time frame in which they will be conducted will have a dramatic impact on the existing conditions along the ROW. In summary, we request that the applicant be denied an exemption to the Stormwater Management regulations as its compliance is a pre-requisite for receipt of FWW individual permits under N.J.A.C. 7:7A-7.2(b)15.

*Conclusion*

We strongly urge the Department to deny these permits for all the reasons cited above. We strongly suggest that at a minimum, any DEP approvals and permits for the project should not be issued until the project receives federal approvals. The Federal Energy Regulatory Commission (FERC) continues to review the environmental impacts of this project and has not issued a Certificate of Public Convenience and Necessity.

As drilling in the Marcellus Shale gas fields continues to expand, New Jersey will receive applications for more and more gas pipeline expansions and new construction projects. Thus far, there has been no holistic planning effort by the State of New Jersey to look at existing energy infrastructure to determine the best locations for such future projects. On the contrary, the pipeline system planning is done by the gas pipeline companies themselves with an *ad hoc* approach and on a basis of first come, first served as we are witnessing with this line, the Tennessee Gas Pipeline projects, and the Spectra pipeline. This poor planning approach results in a patchwork system of pipelines located in both our most environmentally sensitive and most densely populated areas, instead of in carefully chosen and coordinated locations that limit impacts to our communities and the environment and keep families out of harm’s way.

We urge the Department to reject Transco’s FWW and FHA permits and hardship exception applications as the projects do not meet the regulatory standards and will result in significant impacts to critical wetland, stream buffer, and ground and surface water resources. This project is not in the public interest, especially for the residents of New Jersey. The project will significantly harm our state’s natural resources while jeopardizing the safety of many families and increasing our dependence on inherently harmful fossil fuels.

Thank you for considering these comments.

Sincerely,

Jeff Tittel, Director

New Jersey Sierra Club

Clinton Township Council

Laurie Gneiding, Chair

Clinton Township Environmental Commission

Nancy Rumore

Fight the Pipe

Jim Walsh, Eastern Region Director

Food and Water Watch

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New Jersey Highlands Coalition

William S. Kibler, Director of Policy and Science

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Maya van Rossum, the Delaware Riverkeeper
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Doug O’Malley, Interim Director

Environment New Jersey

David Pringle, Campaign Director
NJ Environmental Federation

Claire Mayer, President of the Board

Garden State Earth Institute

Jackie Schramm, Director

Social Justice Ministry

Franciscan Response to Fracking group

St. Mary's, Pompton Lakes, NJ

Wendy Weiner

The Front Yard Farmer

Sandy Batty, Executive Director

Association of New Jersey Environmental Commissions

Paul Eisenman, Chair of Steering Committee
Bergen Grassroots (DFA)

Ross Kushner, Executive Director

Pequannock River Coalition

Ted Glick, Chairperson

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