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## NEW JERSEY CHAPTER

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September 10, 2014

Via Electronic Mail: [efiling@ferc.gov](mailto:efiling@ferc.gov)  
Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, D.C. 20246

RE: Comments on the Environmental Assessment of the Leidy Southeast Extension Project,  
FERC Docket No. CP13-551-000

Dear Secretary Bose:

The New Jersey Chapter of the Sierra Club continues to have serious concerns with the environmental impacts resulting from the construction and maintenance of the Leidy Southeast Expansion Project (the "Project") and is deeply troubled by FERC's "Finding of No Significant Impact" (FONSI) in its environmental assessment ("EA"). The project as proposed will cut through environmentally sensitive areas and a number of preserved lands, resulting in numerous, deleterious impacts on local forests, habitat, wetlands, and hydrogeology. The draft EA does not consider the full consequences of construction at the local level, or the cumulative impacts, including more methane emissions and contribution to climate disruption. We urge FERC to rescind its FONSI finding and to prepare a full Environmental Impact Statement (EIS) to address the projects myriad negative impacts.

### **I. Segmentation of Project Impacts Is a Violation of NEPA**

This EA fails to assess the cumulative impacts that the construction of each separate pipeline loop will have throughout the region. This EA only addresses the localized impacts of each loop, not their combined, magnified impact or the impact of other projects Transco has recently completed in the region and those being constructed and proposed by other companies. Earlier this year the US Court of Appeals for the District of Columbia determined that such action is a violation of NEPA, under *Delaware Riverkeeper vs. FERC*. The Court stated:

"On the record before us, we hold that in conducting its environmental review of the Northeast Project without considering the other connected, closely related, and interdependent projects on the Eastern Leg, FERC impermissibly segmented the environmental review in violation of NEPA. We also find that FERC's EA is deficient in its failure to include any meaningful analysis of the cumulative impacts of the upgrade projects. "



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We believe the EA prepared for the Leidy project also does not meet those requirements. This review has divided the project into individual pipeline segments, rather than assessing the project as a whole, to avoid a more comprehensive NEPA review.

Additionally, the EA fails to consider the impacts resulting from Transco's Northeast Supply Link project, constructed recently in the same region the Leidy Line is proposed. FERC did not do any scientific review or provide any data on the existing environmental conditions along the route of the Northeast Supply Link project. This project has already been constructed and had a major impact on local wetlands and waterways. Instead of looking at available data on the impacts of the Northeast Supply Link project, the EA does not provide any information on existing conditions and simply states that no impacts are expected. The cumulative impacts resulting from both of these projects must be fully reviewed by FERC before the project can be approved.

This failure to address the project's cumulative impacts results in inadequate data collection in the document and therefore requires the preparation of an EIS because "[t]he purpose of an EIS is to obviate the need for speculation by insuring that available data are gathered and analyzed prior to the implementation of the proposed action." *Sierra Club v. U.S. Forest Serv.*, 843 F.2d 1190, 1995 (9th Cir. 1988) (finding an agency's decision not to prepare an EIS unreasonable where the agency failed to gather and address relevant data bearing on cumulative impacts and the impact of the project on state water quality standards).

### **II. Cumulative Impact Analysis Ignores Future Shale Gas Development As A Result of Project Construction**

This EA ignores future shale gas development as a cumulative impact of the project by expanding the transportation system for this product. FERC claims that this is outside their scope but it is inevitable that the existence of the pipeline will result in more shale gas development. An assessment of the increase in Marcellus Shale development produced by this Project is necessary to understand the Project's environmental consequences.

Contrary to FERC's assertion, NEPA only requires "a reasonably close causal relationship" between the environmental effect and the alleged cause" in order for the agency to be required to give the environmental effect a hard look pursuant to NEPA. *U.S. Dep't of Transp. v. Public Citizen*, 541 U.S. 752, 767 (2004). The development of Marcellus shale is in fact a reasonably foreseeable consequence of the Project, and is the reason the Project is being proposed. Therefore, the impacts of Marcellus shale development must be given the same level of comprehensive consideration that all other impacts associated with the Project are given.



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Nevertheless, FERC ignores readily available information regarding the exact location of existing and planned wells and gathering lines in Clinton, Lycoming, Luzerne, Tioga, Bradford, Monroe, and Wyoming Counties. Instead, the extent of FERC's analysis amounts to a notation of how many wells were drilled in the entire state of Pennsylvania and how many permits were issued for wells. FERC impermissibly ignored readily available data and information on the wells and gathering lines for which the Project is being built. If the location and development of the Marcellus shale wells and gathering lines are sufficiently certain to justify construction of the pipeline, then they are sufficiently certain to be given the quantified and detailed analysis that is required under NEPA. See *Thomas v. Peterson*, 753 F.3d 754, 760 (9th Cir. 1985). The lack of such an analysis renders the EA inadequate to support a FONSI for the Project.

While the increase in Marcellus Shale development that the Project will create is not disputed, the effects of such development are highly disputed. Some groups tout Marcellus Shale development as new technology that will allow access to energy resources that will have economic and environmental benefits. Other groups warn of unknown environmental impacts and raise concerns including tainted wastewaters that would be produced by drilling and localized health impacts. With the certainty that this Project will increase Marcellus Shale development and the disputed effects such development will have, the degree to which effects of the Project are controversial is high and weigh in favor of the production of a full EIS examining such impacts.

### **III. The Project Poses a Significant Threat to Public Health and Safety**

The "degree to which the proposed action affects public health or safety," 40 C.F.R. § 1508.27(b)(2), favors a finding of significance. Transco's pipeline safety record and the proximity to private homes raise significant public health and safety concerns that must be assessed in an EIS.

The transmission of highly flammable natural gas creates significant risks of loss of life and major property damage. The primary component of natural gas in interstate transmission pipelines is methane (CH<sub>4</sub>), a colorless, odorless and tasteless gas. While not chemically toxic, methane is classified as an asphyxiant with a slight inhalation hazard. Exposure to high concentrations can result in serious injury or death due to oxygen deficiency. The high risk resulting from exposure to such chemicals makes safety a primary concern. However, accidents continue to occur.



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This is especially alarming given Transco's poor safety record; since 2006 the company's pipelines have been involved in at least 50 gas transmission incidents.<sup>1</sup> Last year an incident occurred at their pipeline here in Branchburg, New Jersey, injuring 13 workers. Just this year Transco experienced two major incidents at pipeline facilities. In West Virginia, a pipeline exploded burning down 2 acres of forest. In Wyoming a pipeline caught on fire resulting in the evacuation of 95 residents.

Pipeline systems in the United States are chronically under regulated to guarantee safe transportation. The Pipeline and Hazardous Materials Safety Administration (PHMSA), the government agency overseeing pipeline safety, only has 135 inspectors to oversee 2.6 million miles of pipeline. PHMSA and its state partners have inspected only one fifth of that pipeline system since 2006.

Problems occur on these lines every year. In the past ten years, gas transmission lines average 117 incidents a year, according to PHMSA. In the past twenty years there have been 41 deaths, 195 injuries, and \$1.6 billion in property damage as a result.<sup>2</sup>

Further, Transco plans to install new loop pipelines within a few feet of numerous homes. The EA fails to address the potential long-term impacts of the pipeline in such close proximity to residences. The significant health threats posed by seeping natural gas, or possibility of explosion, in combination with the proximity of residence to new pipeline loops, poses a significant threat to public health and requires an EIS be prepared to fully understand the impacts.

#### **IV. The Project Will Affect Numerous Unique Geographic Areas and May Cause Destruction of Significant Scientific, Cultural, and Historical Resources**

The "[u]nique characteristics of the geographic area" strongly favor a finding of significant impacts requiring the preparation of an EIS in this case. 40 C.F.R. § 1508.27(b)(3). The Project will affect prime farmlands, wetlands, and ecologically critical areas.

The project will result in significant harm to the unique resources of the Princeton Ridge. The Ridge is one of the last remaining landscapes of contiguous forest, threatened and endangered species habitat and breathtaking vistas in the area. The Skillman Loop of the Project will directly damage the Princeton Ridge, and a "FONSI" ignores that destruction. The serious degradation of ground and surface waters, publically owned lands, and forest habitats associated with this

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<sup>1</sup> PHMSA. Operator Information **TRANSCONTINENTAL GAS PIPE LINE COMPANY**  
[http://primis.phmsa.dot.gov/comm/reports/operator/OperatorIM\\_opid\\_19570.html?nocache=7370#/h](http://primis.phmsa.dot.gov/comm/reports/operator/OperatorIM_opid_19570.html?nocache=7370#/h)

<sup>2</sup> [http://primis.phmsa.dot.gov/comm/reports/safety/Allpsi.html#\\_ngtrans](http://primis.phmsa.dot.gov/comm/reports/safety/Allpsi.html#_ngtrans)



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Project make the Skillman Loop a dangerous portion of the Project and not in the public convenience and necessity.

A number of sensitive species along the Princeton Ridge could be impacted. The New Jersey Conservation Foundation has prioritized preservation of the area due to its critical habitat the Ridge's mature forests provide. The Ridge is home to wood turtle, eastern box turtle, Cooper's hawk, barred owl, and other threatened and endangered species.<sup>3</sup>

The Sourland Mountain Region will also be impacted by the portion of the project that travels through Montgomery Township. The Sourland Mountains comprise the largest contiguous forest in Central New Jersey and contain important headwaters. Putting a new pipeline through this region will result in significant impacts that the EA did not fully address. The Sourlands contain aquifers protected by this intact forest. These aquifers feed streams and groundwater that supply drinking water to two major watersheds, the Raritan and the Delaware. The portion that would be impacted by the Skillman Loop feeds the Raritan River, a water supply for over 1 million people. The loss of forest and trees, the disruption of natural vegetation, the loss of soil, and soil quality will all negatively impact the quality of Sourland Mountain resources.

The project is located very close to documented state-threatened species habitat in Montgomery Township and we do not believe the proposed standards will be protective of those species. The ERI notes there are "areas of habitat with documented sightings of state threatened species...along the northern part of Millstone River and along Bedens Brook west of Route 206"<sup>4</sup> The ERI further notes there are "grasslands supporting populations of state endangered species... north of County Route 518 west of county Route 601... north and south of County Route 518 east of County Route 60."<sup>5</sup>

The EA repeatedly announces that impacts on natural resources are temporary since they will only be felt during the construction phase and resources are expected to return to their preconstruction condition. Simply expecting results without assessment is not sufficient to ensure that information on environmental impacts of an action are available before decisions are made and before action is taken.

### **V. Proliferation of Pipelines in Region Raises Concerns About Need & Location**

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<sup>3</sup> New Jersey Conservation Foundation. Saving Land, Princeton Ridge.  
[http://www.njconservation.org/princeton\\_ridge\\_greenway.htm](http://www.njconservation.org/princeton_ridge_greenway.htm)

<sup>4</sup> Montgomery Township Planning Board. Natural Resource Inventory. April 2004.  
<http://www.montgomery.nj.us/depts/landuse/NRITEXTONLY.pdf>

<sup>5</sup> Id.



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There is no holistic planning by FERC to assess regional transportation and demand needs and to determine the best areas to site the infrastructure. The process is driven by speculative suppliers and on a first come, first served basis. This flawed process does not result in a system that meets the reliability needs of the region while protecting the environment. It instead results in a system where new gas pipelines are being installed, damaging the environment and endangering communities, without an assessment of the actual regional demand for the product. The EIA confirms the Marcellus Shale is expected to produce more gas than can be consumed in New Jersey and the Mid-Atlantic in its Annual Energy Outlook 2014 stating, “Marcellus natural gas exceeds 100% of the demand projected for the New England and Mid-Atlantic Census Divisions from 2016 through 2040 in the Reference case, requiring transportation of some Marcellus gas to other markets. During the expected peak production period for the Marcellus shale, from 2022 through 2025, its total production exceeds natural gas consumption in the New England and Middle Atlantic regions by more than 1.0 Tcf over the period.” (MT-25).

The Marcellus shale is producing more gas than will be needed by consumers in the Middle Atlantic and New England region yet FERC’s unsound regulatory and approval structure will allow even more dangerous, unnecessary pipeline projects to go forward driven by the supply side. In the past five years at least eight pipeline projects have been proposed or completed in New Jersey, and many, many more in the surrounding states of New York and Pennsylvania. How many more are needed to serve an already oversaturated market?

The EA completely dismisses the “No Action Alternative” based on the assumption that the pipeline expansion is needed and any other projects would have similar or greater impacts”:

“However, the Project shippers would need to obtain equivalent capacity from either new or existing pipeline systems to transport the volume of natural gas contracted through the Project’s binding precedent agreements. As discussed in section 3.3.1, we did not identify any other existing pipeline systems in the region that could provide the capacity of the Project. Therefore, the construction of new natural gas facilities would likely result in similar or greater impacts than those associated with the Project to provide the subscribed capacity.” (196)

As already noted above, the EIA is stating the supply of gas from the Marcellus Shale will highly exceed regional demand. What need is there to obtain equivalent capacity, if there is no demand for the product? There is no data provided or analysis on the actual demand for the provided gas.

Additionally, FERC has not provided any analysis or an actual survey of the other pipeline capacity being proposed in the region to determine if it truly does have a similar impact to the environment and public health and safety as other projects. Additional data on environmental



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impacts from other proposed projects is needed before the "No Build Alternative" for this project can be dismissed.

### **VI. Conclusion**

For the foregoing reasons, Sierra Club- NJ Chapter hereby respectfully requests that FERC withdraw its FONSI for the Project and prepare a full EIS.

Thank you for considering these comments.

Sincerely,

Jeff Tittel

Director, New Jersey Chapter of the Sierra Club