



August 21, 2017

Via email and U.S. Mail

Pennsylvania Department of Environmental Protection
400 Market Street, 12th Floor
Harrisburg, PA 17105-8468
RA-EPAIRCOMMENTS@pa.gov

RE: Atlantic Sunrise Pipeline Application, Air Quality Plan Approval 36-001GC

Sierra Club, Lancaster Against Pipelines, Clean Air Council, PennFuture, Concerned Citizens of Lebanon County, Lebanon Pipeline Awareness, Delaware Riverkeeper Network, Waterkeepers Chesapeake, and Schuylkill Pipeline Awareness submit the following comments to the Pennsylvania Department of Environmental Protection (“PADEP”) regarding Transcontinental Gas Pipeline Company, LLC’s (“Transco” or “Williams”) Plan Approval application for use of emission reduction credits (“ERCs”) to offset emissions from the proposed Atlantic Sunrise pipeline project (“the Project”). Specifically, Transco seeks to transfer and use ERCs for 106 tons of nitrogen oxides (“NO_x”), generated by a facility in Harford County, Maryland, to offset construction emissions in Lancaster County, Pennsylvania.

Lancaster County residents already suffer from dangerous levels of air pollution.¹ Use of these ERCs, which were generated more than a year ago in another state, will not protect residents from the adverse health impacts of new air pollution emitted by the Project. Mitigation to fully offset new pollution should involve contemporaneous emission reductions from activities that are currently polluting the air in Lancaster County. PADEP should reject any proposed mitigation that fails to ensure that Lancaster County residents will not be exposed to increased levels of dangerous air pollution. Accordingly, and for the reasons detailed herein, PADEP should deny Transco’s application.

Background

The proposed Atlantic Sunrise pipeline project would involve the construction and operation of approximately 199 miles of pipeline facilities, including 185.9 miles of greenfield gas pipeline

¹ See, e.g., American Lung Association, *State of the Air 2017*, at 15 (Lancaster, PA ranked 12th in “People at Risk In 25 U.S. Cities Most Polluted by Short-Term Particle Pollution (24-hour PM_{2.5})”), 16 (Lancaster, PA ranked 20th in “People at Risk In 25 U.S. Cities Most Polluted by Year-Round Particle Pollution (Annual PM_{2.5})”).

and two new compressor stations in Pennsylvania. In Lancaster County, the Project would include 37.06 miles of the Central Penn Line–South pipeline, as well as the River Road Regulator Station. Air Quality Technical Report at 4. Construction would cause emissions from various sources, including construction equipment, on-road vehicles, off-road construction vehicle traffic, earthmoving activities, and construction storage piles. Final General Conformity Determination (Jan. 2017) at 6.

In Lancaster County, the Project’s construction emissions are estimated at 45 tons/year of fine particulate matter (“PM_{2.5}”), 105.4 tons/year of NO_x, and 14 tons of volatile organic compounds (“VOCs”). *Id.* at 7. These emissions would adversely affect the health of Lancaster County residents. Breathing VOCs can irritate the eyes, nose and throat; cause difficulty breathing and nausea; and damage the central nervous system as well as other organs. Some VOCs are carcinogenic. When combined with NO_x, VOCs also contribute to the formation of ozone.² Breathing air with a high concentration of nitrogen dioxide – a prevalent form of NO_x – can irritate airways in the respiratory system. Exposure over short periods can aggravate respiratory diseases, such as asthma, leading to difficulty breathing and the need for emergency medical care. Longer exposure to elevated concentrations can contribute to the development of asthma and increase susceptibility to other respiratory infections.

NO_x is a precursor pollutant for ozone and PM_{2.5}. There is no evidence of a safe level of exposure for ozone or PM_{2.5}, and both have health effects below the current National Ambient Air Quality Standards (“NAAQS”).³ Ozone can cause coughing, chest pain, throat irritation, and airway inflammation; reduce lung function and harm lung tissue; and worsen bronchitis, emphysema, and asthma.⁴ PM_{2.5} can cause decreased lung function, heart attacks, aggravated asthma, irritation of the airways, coughing or difficulty breathing, and premature death in people with heart or lung disease.⁵ In the American Lung Association’s *State of the Air 2017* report, Lancaster’s metro area ranked 12th in the nation in “People at Risk in 25 U.S. Cities Most Polluted by Short-Term Particle Pollution (24-hour PM_{2.5}).”

General Conformity requires that direct and indirect project emissions be mitigated or offset to ensure that a project in a nonattainment or maintenance area for the NAAQS conforms to the State Implementation Plan and that *air quality is not adversely affected*.⁶ See General

² American Lung Association, *Volatile Organic Compounds*, <http://www.lung.org/ourinitiatives/healthy-air/indoor/indoor-air-pollutants/volatile-organic-compounds.html>.

³ See *Am. Trucking Ass’n., Inc. v. EPA*, 283 F.3d 355, 360 (D.C. Cir. 2002) (internal quotation marks and alterations omitted) (recognizing the “lack of a threshold concentration below which [particulate matter and ozone] are known to be harmless”); EPA, *NAAQS for Particulate Matter*, 78 Fed. Reg. 3086, 3098 (Jan. 15, 2013) (explaining that there is “no population threshold, below which it can be concluded with confidence that PM_{2.5} related effects do not occur”).

⁴ See <https://www.epa.gov/ozone-pollution/ozone-basics#effects>.

⁵ See <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>.

⁶ Pursuant to 40 C.F.R. § 93.160(a), “measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for

Conformity Plan Approval Review Memo (July 25, 2017). Lancaster County is currently designated as nonattainment for the 2008 Ozone NAAQS and as a maintenance area for the 2006 24-hour PM_{2.5} NAAQS. *Id.*⁷ (While many nonattainment areas consist of several counties, Lancaster County is its own nonattainment area.) Air quality in Lancaster County will be adversely affected by Project construction, which will emit hundreds of tons of pollutants into the air. Transco has failed to demonstrate that using 106 tons of NOx ERCs generated in Harford County, Maryland means that Project construction emissions will not adversely affect air quality, cause or contribute to any new NAAQS violations, increase the frequency or severity of existing NAAQS violations, or delay timely attainment of any NAAQS, required interim emission reductions, or other milestones.

The ERCs Were Obtained in an Inappropriate Location

The ERCs that Transco proposes to use were not generated in Pennsylvania. Rather, they were generated by the March 2016 shutdown of a municipal waste combustor at the Harford County Resource Recovery facility in Maryland.⁸ Transco has not demonstrated that the location of the retired emission reduction credits in Harford County, Maryland is acceptable for offsetting Project emissions in Lancaster County, Pennsylvania. The documentation that Transco has submitted suggests that using these ERCs is not appropriate. Lancaster County residents will be exposed to hundreds of tons of additional pollutants from Project construction, but will not experience any meaningful air quality benefit from the retirement of ERCs generated in Harford County, Maryland. Nonetheless, Transco maintains that its use of the Maryland ERCs to offset NOx emissions in Lancaster County “will present a net benefit to air quality environment in the local area.” Air Quality Technical Report at 9.

Because Project emissions from construction in Lancaster County will impact county residents, any ERCs used to offset those emissions should be generated from a reduction that improves air

implementation.” Section 4.1 of the Final General Conformity Determination lists NOx emission control measures and regulations included in the Pennsylvania SIP that potentially apply to the Project. This section also notes that Transco has committed to adhering to EPA standards for construction emissions from gasoline, on-road diesel, and off-road diesel equipment, but these standards are not specified. *Id.* at 9. For example, it is unclear if Transco has committed, in contracts and subcontracts, to use of EPA Tier 4-compliant diesel equipment; if generators would be equipped with diesel particulate filters; or if fuel would meet EPA’s ultra-low sulfur requirements. Other mitigation measures are discretionary and lack enforceable standards (*e.g.*, minimizing the idling time of engines “to the extent practicable,” Atlantic Sunrise Final Environmental Impact Statement at 4-219).

⁷ Transco’s Air Quality Technical Report indicates that Lancaster County is designated nonattainment for PM_{2.5}. Air Quality Technical Report at 1, 4. PADEP’s October 28, 2016 letter to FERC indicates that Lancaster County is designated as a maintenance area for ozone and fine particulate matter. Letter from PADEP to FERC, Oct. 28, 2016, at 1.

⁸ Transco was supposed to identify “reduction measures to generate emission offsets that are *contemporaneous* with applicable project emissions.” Atlantic Sunrise Project General Conformity Summary (July 10, 2017), at 1 (emphasis added). The Harford County facility shut down more than a year before any potential Project construction emissions would possibly occur.

quality in Lancaster County (thereby offsetting the additional pollution from the Project). The Draft General Conformity Determination, issued in November 2016, indicates that Transco initially planned to use NO_x ERCs banked from a previous Transco project at Compressor Station 195 in York County, Pennsylvania. Draft General Conformity Determination (Nov. 2016) at 9.⁹ That document also indicates that in October 2016, EPA stated that “ERCs from a nearby Maryland non-attainment area may be nearby but that an analysis of additional modeling may be needed to determine if the area where the ERCs were generated contributes to a violation of the application NAAQS in Lancaster County.” *Id.*¹⁰ While an analysis was performed for Howard County, Maryland,¹¹ none was performed for Harford County.

It is not readily apparent why Transco initially decided to use ERCs from Howard County, Maryland, rather than from York (or Lancaster) County in Pennsylvania. And at the eleventh hour, Transco decided to purchase ERCs generated in Harford County rather than Howard County. *See* Letter from Transco to Maryland Department of the Environment, June 20, 2017, at 1 (“Since this project has become time sensitive, we would greatly appreciate the Department’s cooperation in processing the transfer request as expeditiously as possible.”). The Harford County ERCs were transferred to the PADEP ERC Registry on July 25, 2017.

While interstate ERC trading may be allowed because Pennsylvania and Maryland have an ERC reciprocity agreement, other conditions must be met. As Transco noted in its Plan Approval application, “the source of the ERCs must be from an area that can be demonstrated to have contributed previously to an air quality exceedance in the area of the proposed project.” Plan Approval Application at Section B.1. *See also* 40 C.F.R. § 93.158(a)(2); Letter from PADEP to FERC, Dec. 29, 2016 (PADEP “believes that the retirement of the necessary amount of ERCs ... from a suitably equivalent or higher-designated nearby nonattainment area that can *demonstrate impact on Lancaster County* is sufficient to meet the General Conformity emissions offset requirement.” (emphasis added)).¹²

Here, Transco has failed to show that those conditions are met. *See* Letter from PADEP to FERC, Oct. 28, 2016, at 1 n.1 (“Williams will need to make the determination and justification

⁹ Clean Air Council, Sierra Club, Concerned Citizens of Lebanon County, Lebanon Pipeline Awareness, and Lancaster Against Pipelines submitted a joint comment letter on the Draft General Conformity Determination to FERC on December 5, 2016 (“Comment on Draft GCD”).

¹⁰ FERC’s Draft General Conformity Determination also stated that “ERCs must be confirmed *prior to* our issuance of our final General Conformity Determination.” Draft General Conformity Determination at 9 (emphasis added). *See also* Letter from Transco to FERC, Sept. 29, 2016 (“PADEP will transfer ERCs from Station 195 to Project sources prior to December 31, 2016.”). The Final General Conformity Determination issued in January 2017, and refers only to the Howard County ERCs.

¹¹ Compressor Station 190 is located in Howard County. Atlantic Sunrise Final Environmental Impact Statement at 4-7.

¹² Lancaster County is currently designated as a maintenance area for the 2006 24-hour PM_{2.5} NAAQS. Harford County is designated as a maintenance area for the 1997 PM_{2.5} NAAQS. *See* General Conformity Plan Approval Review Memo (July 25, 2017), at 2 (characterizing these as “the same.”).

on the purchase location in order to fully mitigate emissions from this project.”). Transco has not adequately demonstrated that emissions from the relevant area in Maryland impact air quality in Lancaster County, nor has it shown that there is sufficient ERC availability should actual NO_x emissions exceed estimates. Transco wrote in its application that “the air quality justification for use of the Harford County, MD ERCs is detailed in the General Conformity Summary narrative and supporting documentation.” *Id.* Transco’s documentation, however, attempts to justify use of ERCs generated in Howard County, MD, not in Harford County. *See* Justification for the Use of ERCs from Howard County, Maryland, Memorandum from Mark Garrison to Jaymie Archer (Dec. 6, 2016) (“Howard County Justification Memo”).¹³ The Final General Conformity Determination from January 2017 references correspondence from PADEP verifying acceptance of the location of ERCs: “Specifically, the PADEP letter references a technical memo that details the justification for acceptance of ERCs from *Howard County*, Maryland for Lancaster County.” Final General Conformity Determination at 10 (emphasis added). *See also* Letter from PADEP to FERC, Dec. 29, 2016, at 2 (“The Department concurs that it is appropriate to use of NO_x ERCs generated by sources in *Howard County*, Maryland to offset the [Atlantic Sunrise] project construction emissions that will be produced in Lancaster County, Pennsylvania.” (emphasis added)).

There is no comparable technical memorandum for Harford County, nor does Transco provide sufficient justification for the use of ERCs from Harford County, Maryland. Transco simply provides a few conclusory statements that fail to justify the use of ERCs from Harford County. Before emitting hundreds of tons of air pollutants in Lancaster County, Transco must provide a detailed analysis that justifies the use of ERCs from Harford County. If Transco is unable to justify the use of these ERCs, the construction activities causing the emissions cannot occur unless and until Transco demonstrates that it can sufficiently mitigate emissions in Lancaster County.

PADEP’s application review memorandum, dated July 25, 2017, notes that the HYSPLIT analysis was “done originally from Howard County, MD and shows that NO_x emissions from *Howard County* contribute to Lancaster County.” General Conformity Plan Approval Review Memo (July 25, 2017) at 3 (emphasis added). In Transco’s July 13, 2017 letter to PADEP, it wrote that the Harford County ERCs “originated from a source that is closer in proximity to Lancaster County than Howard County” and that the source of the Harford County ERCs “is within the previously approved HYSPLIT trajectories.” Letter from Jaymie Archer to Chris Trostle, July 13, 2017. Similarly, PADEP’s application review memorandum states that “the conclusions reached by the HYSPLIT analysis for Howard County are valid for Harford County” because “Harford County is closer to Lancaster County than Howard County and lies within the HYSPLIT trajectories from Howard County.” General Conformity Plan Approval Review Memo at 3. The memorandum also states that “[f]or the PM_{2.5} and Ozone NAAQS, Transco’s plan approval application shows that emissions from *the Baltimore area* contribute to the Lancaster area” and that “the identified ERC’s contribute at least 1 part per billion (ppb) or more to the

¹³ Transco repeatedly attempts to gloss over the fact that its documentation is for Howard, not Harford, County. *See* Atlantic Sunrise Project General Conformity Summary at 1 (“Supporting documentation of the ERC purchase and transfer *from MD to PA* is provided as Attachment E” (emphasis added)).

ozone pollution concentration in Lancaster County.” *Id.* at 2-3 (emphasis added). As detailed below, Transco has not adequately demonstrated that Harford County emissions impact Lancaster County and contribute to ozone and PM_{2.5} exceedances there. 40 C.F.R. § 93.158(a)(2).

Transco has not shown that reducing NO_x emissions in Harford County has improved air quality, including reductions in ozone and PM_{2.5} pollution, in Lancaster County. There also has been no meaningful analysis regarding the implications of switching from ERCs generated in Howard County to those generated in Harford County. That Harford County is closer to Lancaster County is not determinative. Proximity is not the only relevant factor. As shown in revised Figure 1 (attached hereto as Exhibit A), the Harford County source is further east than the Howard County source, and is almost due south of the Lancaster County ambient monitor. Considering the prevailing winds, emissions from the Harford County source are unlikely to be regularly transported to Lancaster County. The memorandum that attempts to justify the use of ERCs from Howard County does not adequately demonstrate that ERCs from Maryland sources are appropriate to use to offset increased emissions in Lancaster County. Even if PADEP believes that ERCs from Howard County sources may be appropriate, Transco has not performed a similar analysis for Harford County sources.

Howard County Justification Memorandum

HYSPLIT Analysis: The Howard County memorandum explains that the HYSPLIT model was used to calculate back trajectories (identifying locations traversed by an air parcel) from the Lancaster County ozone monitor on days when the monitor recorded a daily 8-hour ozone concentration greater or equal to the NAAQS of 70 ppb. Howard County Justification Memo at 1. From 2010 to 2015, on days when NAAQS exceedances were detected, the air quality at the Lancaster monitor was affected by air parcels passing through the Baltimore area less than 25% of the time (14 out of 60 days). *Id.* The purple lines in Figure 1 depict the HYSPLIT back-trajectories on the 14 days with recorded ozone NAAQS exceedances when air quality at the Lancaster ozone monitor was affected by air parcels that passed through the Baltimore area. The Harford County facility is located to the east of almost all of those trajectories. In other words, emissions from that area almost never blow due north and contribute to a NAAQS exceedance in Lancaster County (there is also nothing to suggest that Harford County sources contributed more than 1 ppb on these rare occasions). Transco has failed to show that the reductions in NO_x emissions in Harford County have any meaningful impact on Lancaster County air quality. Instead, the evidence indicates that Lancaster County residents will be exposed to increased emissions from Project construction, without having experienced a corresponding decrease in air pollution from the Harford County source shutdown or ERC retirement.

CMAQ Modeling: The memorandum states that “[b]ased on discussions with EPA Region III, a demonstration that Maryland sources would contribute more than 1 ppb of ozone on days with recorded maximum 8-hour ozone concentrations equal to or greater than 70 ppb would be sufficient to justify using the Maryland NO_x ERCs.” *Id.* at 1. The CMAQ modeling section of the memorandum identifies only one day (July 21, 2011) when Maryland sources contributed more than 1 ppb to Lancaster County on a day when a NAAQS exceedance was recorded at the

Lancaster County measurement station. There is no indication that sources in Harford County contributed to the NAAQS exceedance on July 21, 2011.

PM_{2.5} Analysis: This section of the memorandum states that “a reduction of NO_x emissions in the Baltimore area would reduce the secondary PM_{2.5} contribution in Lancaster County.” *Id.* at 4. While some Baltimore area emissions may be regularly transported to Lancaster County, Transco has not shown this to be the case for the Harford County source. As revised Figure 1 (attached as Exhibit A) shows, the Harford County source is significantly further east compared to the Howard County source. The conclusion that “it is reasonable to conclude that the Baltimore area NO_x ERCs would provide a secondary PM_{2.5} benefit in Lancaster County” is not adequately supported with regard to the Harford County ERCs. Even if PADEP concluded that Transco’s analysis was sufficient for Howard County, Transco has not performed a similar analysis for Harford County. Furthermore, this section indicates that the members of the public who have experienced secondary PM_{2.5} benefits due to shutdown of NO_x-emitting facilities in the Baltimore area are distinct from those who would suffer from increased secondary PM_{2.5} pollution due to NO_x emissions from Project construction.¹⁴

The Amount of ERCs Proposed to Offset Emissions from Project Construction Activities in Lancaster County Is Insufficient

Project construction will expose Lancaster County residents to hundreds of tons of dangerous air pollutants. Specifically, according to Transco’s estimates, construction emissions will include 45 tons/year of PM_{2.5},¹⁵ 105.4 tons/year of NO_x, and 14 tons of VOCs.¹⁶ As mitigation, Transco proposes to use 106 tons of NO_x ERCs generated more than a year ago in another state.

Even if the ERCs had been generated from an appropriate source, which they were not, Transco has not adequately demonstrated that sufficient ERCs are available. PADEP previously expressed concern regarding additional ERC availability. In a July 13, 2017 letter to PADEP, Transco wrote: “[P]lease be aware that there is an adequate supply of ERCs from the same source in the event additional ERCs are needed.” Letter from Jaymie Archer to Chris Trostle, July 13, 2017. This statement does not constitute adequate assurance that additional ERCs will be available. First, as described above, ERCs generated in Harford County, Maryland will not protect Lancaster County residents from the air pollution caused by Project construction.

¹⁴ Lancaster County residents will also suffer from directly emitted PM_{2.5}, estimated at 45 tons/year for Project construction.

¹⁵ As detailed in comments on the Draft General Conformity Determination, fugitive PM_{2.5} emissions from earthmoving alone would exceed 90 tons/year in Lancaster County. Comment on Draft GCD at 4. Combined with PM_{2.5} emissions from other construction activities, the applicability threshold of 100 tons/year is easily surpassed. Transco should also fully mitigate PM_{2.5} emissions in Lancaster County. Moreover, given the magnitude of aggregate emissions from construction activities in Pennsylvania, Transco should fully mitigate all construction emissions in Pennsylvania.

¹⁶ See also Air Quality Technical Report at 9 n.3 (FERC acknowledges that “local residents near the construction work areas may notice elevated fugitive dust levels” (quoting Draft Environmental Impact Statement at 4-206)).

Second, even if ERCs generated at the Harford County facility were appropriate, Transco has not demonstrated that those ERCs will remain available.

In email correspondence with Transco and its consultant, PADEP staff wrote that the agency had “voiced concerns” about Transco “having enough ERCs in case the project is extended and more emissions were produced.” Email from Chris Trostle, May 12, 2017. Noting that it appeared more ERCs were currently available from the Harford County source “if needed” (in response to an email indicating that 273 tons of NO_x ERCs were available from that source), Mr. Trostle went on to write: “I hope that more are available in case some unforeseen circumstance arises that would extend construction and elevate emissions.” *Id.* In other words, the current availability of additional ERCs from the Harford County source is not a guarantee that there will be an adequate supply of ERCs, in the event that actual emissions exceed estimates (and, consequently, additional ERCs are needed).¹⁷ The one-sentence response from Transco’s consultant is not an adequate assurance. *See* Email from Jeannie Woodruff, May 12, 2017 (“There are additional ERCs available in the event that actual emissions from construction are in excess of estimates.”).

This inadequacy is particularly concerning in light of the fact that Transco initially estimated that NO_x emissions in Lancaster County would be 133.5 tons/year¹⁸ – significantly more than its later estimate of 105.4 tons/year. *See also* ERC Comment Letter from Sheila V. O’Rourke (attorney for Adorers of the Blood of Christ) to Krishnan Ramamurthy, Aug. 14, 2017, at 2 (explaining that Transco underestimated the amount of pollutants it will emit and urging PADEP to require Transco “to recalculate its emissions forecast utilizing the latest technology”).

There does not appear to be any assurance that the Harford County ERCs will remain available for potential transfer and use by Transco. In any event, as detailed above, potentially offsetting additional air pollution generated in Lancaster County, Pennsylvania with ERCs generated in Harford County, Maryland is not reassuring to Lancaster County residents who will be exposed to the new pollution while not benefiting from the previous Harford County reductions.

Additional Deficiencies in Transco’s Plan Approval Application

General Information Form, Question 3.0: Transco responded “No” to Question 3.0: “Will your project, activity, or authorization have anything to do with a well related to oil or gas production...?” *General Information Form* at 5. A natural gas pipeline has something “to do” with gas production wells and is a “gas-related project.” *Id.* (Question 3.2). Consequently, Transco should have answered “Yes” to this question and proceeded to answer Questions 3.1-3.3.

General Information Form, Question 4.0.1: In response to Question 4.0.1, Transco declined to provide a response to “Total Disturbed Acreage,” instead stating: “*Reference general conformity determination.*” *Id.* (Question 4.0.1) (italicized in original). Transco did not explain this failure

¹⁷ It is also unclear how an exceedance of emission estimates would be detected.

¹⁸ Draft General Conformity Determination at 7.

to provide a quantitative response, and instead simply referenced the General Conformity Determination (and without providing a page number).

General Information Form, Questions 5.0-5.3, 6.0, and 13.0: Transco appears to have answered these questions with an extremely narrow reading of “the project” in mind. In responding to these questions, “the project” should be interpreted as the Atlantic Sunrise pipeline project.

Air Pollution Control Act Compliance Review Form, Table 5: Transco was required to list “*all incidents of deviations of the APCA, regulations, terms and conditions of an operating permit or plan approval or order by applicant or any related party... includ[ing] items both currently known and unknown to the Department.*” APCA Compliance Review Form at 4 (emphasis added). Instead of following this directive to list all incidents, Transco simply wrote: “All deviations to date have been formally documented by the Department.” *Id.* at Table 5. As required by the form, Transco must list all incidents of deviations.

PADEP’s Constitutional Duty to Protect Air Quality

PADEP also has a constitutional duty to protect the quality of the air that Pennsylvanians breathe. The Pennsylvania Constitution provides that “[*t*]he people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.” Pa. Const. art. I, § 27 (emphasis added). *See also Pa. Env’tl. Def. Found. v. Commonwealth*, 161 A.3d 911, 933 (Pa. 2017) (“*PEDF*”) (“*the Commonwealth has a duty to prohibit the degradation, diminution, and depletion of our public natural resources, whether these harms might result from direct state action or from the actions of private parties*” (emphasis added)). This constitutional provision “offers protection equally against actions with immediate severe impact on public natural resources and against actions with minimal or insignificant present consequences that are actually or likely to have significant or irreversible effects in the short or long term.” *Robinson Township v. Commonwealth*, 83 A.3d 901, 959 (Pa. 2013).

PADEP’s constitutional duties are not necessarily satisfied by compliance with statutory or regulatory standards. *See Center for Coalfield Justice v. Commonwealth of Penn. Dep’t of Env’tl. Protection*, EHB Docket No. 2014-0720B at 62 (Aug. 15, 2017) (“In the abstract, we find that certain impacts that don’t impair a stream but do impact it, can, based on their scope or duration, rise to the level of causing unreasonable degradation or deterioration. Finding otherwise would mean that you are treating the Article 1, Sec 27 Constitutional standard as coextensive with compliance with the statutes and the regulations governing clean water. The Supreme Court in *PEDF* clearly rejected such an approach....”). Moreover, PADEP’s mission is to “*protect Pennsylvania’s air, land and water from pollution and to provide for the health and safety of its citizens through a cleaner environment.*”¹⁹ Accordingly, PADEP should deny Transco’s proposal.

¹⁹ *See* <http://www.dep.pa.gov/About/Pages/default.aspx> (emphasis added).

Conclusion

Project construction emissions will add hundreds of tons of pollutants to the air that Lancaster County residents breathe. The use of NOx ERCs generated in Harford County, Maryland – from a facility that shut down over a year ago – will not result in a corresponding reduction in air pollution that benefits county residents. PADEP should deny the application unless and until Transco demonstrates full mitigation of Project construction emissions that will protect the health of Pennsylvania residents in Lancaster County and beyond.

Sincerely,



Elly Benson
Staff Attorney
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
415-977-5723
elly.benson@sierraclub.org

Joanne Kilgour, Chapter Director
Thomas Au, Conservation Chair
Sierra Club – Pennsylvania Chapter
P.O. Box 606
Harrisburg, PA 17108

Malinda Harnish Clatterbuck
Lancaster Against Pipelines

Joseph Otis Minott
Chief Counsel & Executive Director
Clean Air Council

Alice R. Baker
Staff Attorney
PennFuture

Leah Zerbe
Co-founder
Schuylkill Pipeline Awareness

Maya K. van Rossum
Delaware Riverkeeper Network

Betsy Nicholas
Executive Director
Waterkeepers Chesapeake

Pamela Bishop
Principal
Concerned Citizens of Lebanon County

Ann Pinca
President
Lebanon Pipeline Awareness

Exhibit A

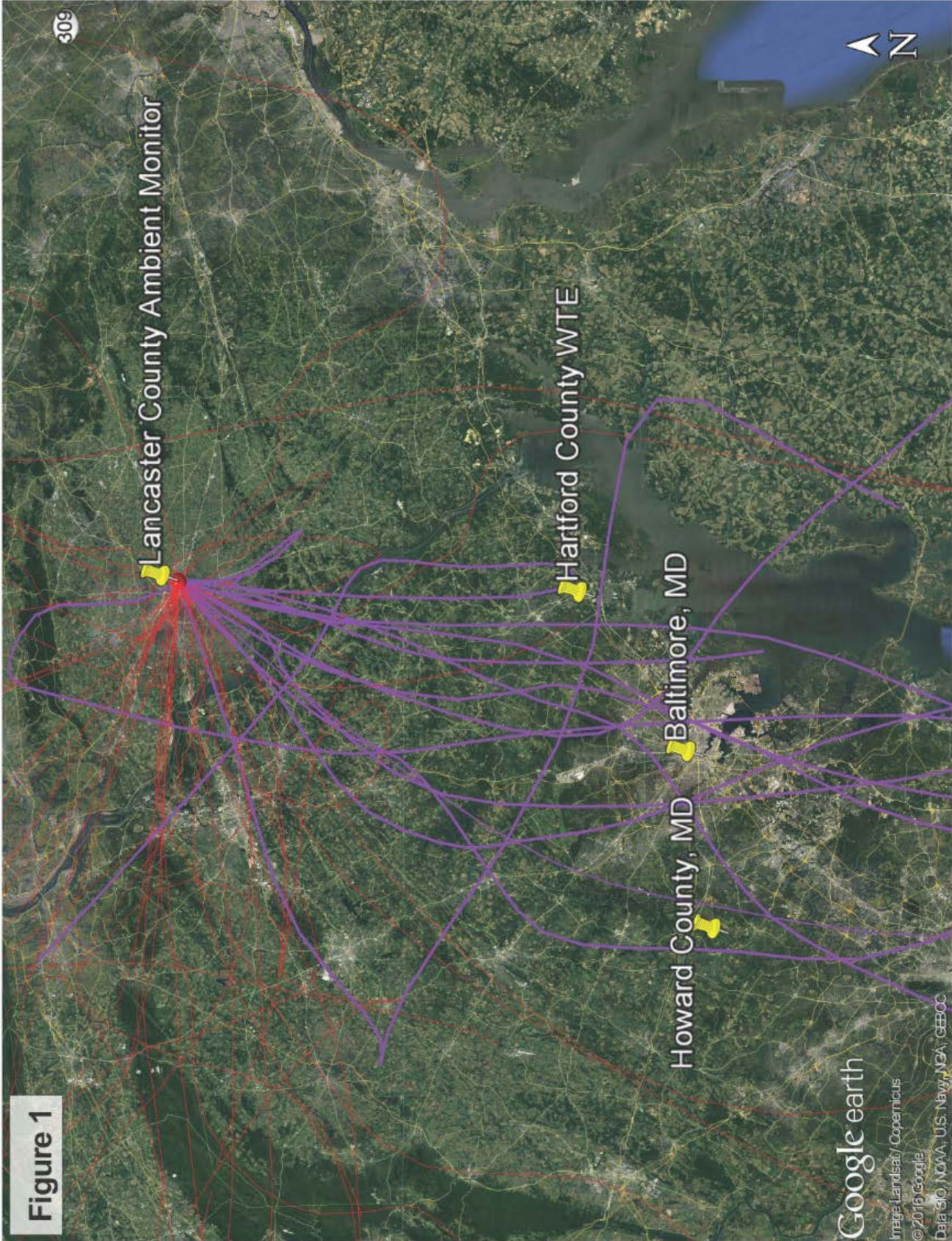


Figure 1

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Lancaster County Ambient Monitor

Hartford County WTE

Baltimore, MD

Howard County, MD

Google earth

Image Landsat/ Copernicus
© 2016 Google
Data: SIO, NOAA, U.S. Navy, NGA, GEBCO