

*Delaware Riverkeeper Network
Environment New Jersey
Clean Water Action
NJ Sierra Club
Sourland Conservancy
Holland Township Citizens Against the Pipeline
Delaware Township Citizens Against the Pipeline
Hopewell Township Citizens Against the PennEast Pipeline
Kingwood Citizens Against the Pipeline
West Amwell Citizens Against the Pipeline
HALT*

March 3, 2016

Bob Martin, Commissioner
401 E. State St., 7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

Re: The PennEast Pipeline does not meet the requirements necessary for a New Jersey 401 Certification pursuant to the Clean Water Act

Dear Commissioner Martin,

The proposed PennEast Pipeline clearly cannot and will not meet the requirements necessary to secure a 401 Water Quality Certification from the State of New Jersey. Given the high level of harm the project will inflict on the water and wetland resources of the state and the absolute lack of need for the project in order to serve local, state or even national demand, we urge you to ensure the full record necessary to deny 401 Water Quality Certification to the PennEast Pipeline.

In order to secure 401 water quality certification from the State of New Jersey, the PennEast Pipeline company must meet the standards and procedures for securing a Freshwater Wetlands Protection Act permit from the State of New Jersey pursuant to NJAC 7:7:A. (NJAC 7:7:A-2.1(d))

Given that there is no public, private, or compelling need for the gas to be carried by the proposed PennEast Pipeline, NJ regulations prohibit 401 Water Quality Certification.

New Jersey communities have no public or private need for the gas that would be delivered by the PennEast Pipeline, and certainly has no compelling public need for the gas. As noted in the attached expert report from Arthur Berman:

“Natural gas consumption for New Jersey has been relatively flat for the past four years at average rate of 1.8 billion cubic feet of gas per day (Bcf/d),

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
dm@delawareriverkeeper.org
www.delawareriverkeeper.org



somewhat below the higher levels of the late 1990s. [] Although consumption increased slightly in 2013 compared to the three previous years, New Jersey cannot be called a growth market....”

“The proposed PennEast Pipeline would deliver an additional 1 Bcf/d of natural gas to New Jersey potentially creating a 53% supply surplus above the current level of consumption.”

(Professional Opinion of Proposed PennEast Pipeline Project, Arthur E. Berman, Petroleum Geologist, Labyrinth Consulting Services, Inc., February 26, 2015)

Given that NJ has no need for the gas PennEast would carry and that delivery of the gas proposed by PennEast, if it in fact were to be delivered to NJ entities (PennEast has provided no evidence of where or who the specific final end users will be, and instead have only provided general assertions of broad markets) it would create a natural gas surplus in the state, the requisite demonstration of need pursuant to 7:7A-7.2(b)(1) & (12) and/or 7:7A-7.5 cannot be met. The natural gas needs of New Jersey are already being met and the public and private energy needs of New Jersey can now and in the near future be better met with clean energy alternatives that would have a less adverse impact on the environment, open waters and wetlands. As a result, the PennEast pipeline is not an appropriate candidate for a NJ 401 Water Quality Certificate.

Given that the proposed PennEast Pipeline, would inflict severe and irreparable harm on NJ aquatic resources, vegetation, fish, wildlife, aquatic circulation, wetlands and hydrologic patterns. The PennEast Pipeline, if constructed, will cause and contribute to violations of applicable State water quality standards and will cause and contribute to degradation of ground and surface waters. PennEast will also be unable to comply with the mandates of the stormwater management and flood hazard rules. These are among the reasons that NJ regulations prohibit 401 Water Quality Certification.

There are significant environmental impacts which result from pipeline crossing and construction activities regardless of mitigation techniques used. The list of impacts includes, but is not limited to: erosion and sedimentation, loss of riparian vegetation, habitat loss and fragmentation, air quality impacts, safety concerns, groundwater impacts, soil compaction, increased stormwater runoff, wetland degradation, and cumulative environmental impacts along the length of the project. These impacts to the environment are not limited to the time period in which the right-of-way is disturbed, but can result in long lasting consequences.

The PennEast company will impact 54 wetlands and 87 surface waterbodies. Many of the New Jersey waterways crossed/cut are Category One (C1) waters.

The proposed PennEast Pipeline project, as demonstrated by the installation of other pipeline projects in our region and nation, will create new pathways for water flow, thereby altering the hydrologic pattern of the watershed and adversely impacting (in both quantity, quality and seasonal timing) streams, wetlands and drinking water sources.

During the construction of the PennEast pipeline stream crossings there will be high levels of suspended sediments from blasting, trench excavation, and backfilling.

Sedimentation will also result from the removal of vegetation and activity that takes place on the stream-adjacent (riparian) lands. The resulting sedimentation will have serious consequences for the benthic invertebrates and fish species whose vitality is crucial for healthy aquatic ecosystems – including, but not limited to, filling in the interstitial spaces of the streambed, changing its porosity and composition, and thereby increasing embeddedness and reducing riffle area and habitat quality. As with other pipelines, there will be reductions in benthic invertebrate densities, changes to the structure of aquatic communities, changes in fish foraging behavior, reductions in the availability of food, and increases in fish egg mortality rates. In addition to the stream crossing construction activity and the associated new road construction increases the risk of erosion and sedimentation.

Even in instances where the impacted benthic community restores itself, that does not diminish or negate the ecosystem affects during the time of damage including the other cascading affects to other ecosystem services otherwise provided by the invertebrates – including as food for other dependent species, the water quality benefits provided by invertebrates helping with nutrient breakdown, and the breakdown of instream detritus creating food for other species.

Pipeline construction activity requires the clearing of vegetation in and around wetlands having degrading impacts. After construction the PennEast pipeline company will maintain the right-of-way along its length, including in wetland areas, by preventing woody vegetation from re-establishing. For forested wetlands this will mean a permanent conversion of the forested wetland to an emergent wetland. This conversion will adversely impact the functions and values of the impacted wetlands. Certified wetlands specialists have found a measurable “decrease” or “loss” in functionality as a result of the permanent conversion of forested wetlands to emergent wetlands – this will be the outcome with the PennEast Pipeline as well if it is allowed to cut through NJ wetlands.

A functional conversion of wetlands from forested wetlands to emergent wetlands will result in decreases to above ground biomass, structural diversity of the wetland, and local climate amelioration. The conversion will also result in a loss of forest interior habitat, visual and aural screening from human activity, suitability of shade-loving plant species, and the production of mast (such as acorns) for wildlife. Moreover, these conversions will cause an increased wetland exposure to wind, ice and sun, as well as the localized effects of global warming on biota. Wetland functions involving drainage patterns, water quantity, and water quality will also be adversely impacted by a functional conversion of forested wetlands to emergent wetlands. Specifically, emergent wetlands provide decreased soil stabilization, streambank anchoring against erosion, nutrient storage, and temperature maintenance when compared to forested wetlands. As a result, erosion and sedimentation can be expected to increase as a result of the conversion. The function of storm damage shielding can also be expected to decrease as a result of this conversion.

For each of the pipeline construction techniques there used there will be a resulting loss of riparian buffer vegetation, foliage, waterway protection and habitat. As a result the PennEast pipeline will fail to meet the buffer mandates of NJ regulations.

Pipelines have been seen by experts to be conduits for diverting groundwater from its natural path. According to expert observation, pipeline trenches can divert

groundwater and as a result permanently alter the hydrologic cycle in the vicinity of the pipeline right-of-way – this will be no less true for the PennEast pipeline than every other pipeline that has cut through our ecological systems and communities. This alteration will decrease the water resources available to support wetland hydrology and stream base flow in the summer and fall dry season.

The compacted soils resulting from pipeline construction will increase rainfall runoff and reduce ground water infiltration further harming wetland hydrology and stream baseflow.

In addition the 84" total construction depth of the pipeline will, in a number of New Jersey communities, impact ground water through the disturbance of shallow bedrock, causing bedrock channels to close up wells or springs as much as a mile away. In addition, the blasting that will be needed for PennEast will have significant impacts for water resources that will be unavoidable.

The adverse impacts to wetlands, forests, and both surface and groundwaters is detrimental, far reaching and in many instances permanent. Recreation and aesthetic values of both the public and private lands and ecosystems impacted will be greatly diminished both near term and long term.

In addition, research is increasingly showing that there will be adverse economic impacts to private properties that will be cut by PennEast with some studies showing adverse impacts by as much as 30 to 50%. The harm to open space preservation is also significant – not only will the communities, aesthetic, recreational and ecological values of the open spaces crossed be diminished, but the future desire of communities to invest in open space preservation for the benefits of waterway, wetlands, aquatic life and wildlife live will also be undermined – who will want to invest in preserving land if the know it will be turned over to a pipeline company?

PennEast will have significant cumulative impacts on the water resources and ecological communities cut by the project and located adjacent to or downstream of it. The large amount of land disturbance created during pipeline construction results in increased stormwater runoff, sedimentation, and erosion of the land and stream channels. The disturbance of the land, including loss of forested and healthy ecological vegetation, the adverse impacts to wetlands, and the soil compaction that results from construction in both the permanent footprint as well as the supposed temporary construction areas, are permanent as is the water quality and ecological harm they inflict.

The capacity of NJ waterways and habitats to recover from the multitude of impacts inflicted by PennEast will most certainly be exceeded.

The cumulative impacts will not just result from the direct cuts and footprints across the landscape, but will be compounded by the resulting air pollution and climate changing impacts of the pipeline's operation. Additionally, the potential of pipelines to rupture and leak raises a greater risk of human health concerns and serious water contamination issues.

It is clear that the PennEast Pipeline cannot meet the mandates of 401 Water Quality Certification in New Jersey. The Delaware Riverkeeper Network and our colleague organizations on this letter will most certainly provide additional scientific, legal and

expert justification for this position to ensure NJ has all of the materials necessary to reject certification of this project, but we felt it was important to send this first letter to highlight that certification was not justifiable and that we expect New Jersey to honor the mandates of the law and reject the 401 Certification for the PennEast Pipeline.

Respectfully,



Maya K. van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network
Doug O'Malley, Executive Director, Environment New Jersey
David Pringle, NJ Campaign Director, Clean Water Action
Jeff Tittle, Executive Director, NJ Sierra Club
Caroline Katmann, Executive Director Sourland Conservancy
Lorraine Crown, Holland Township Citizens Against the Pipeline
Kristin McCarthy & Debra Bradley, Co-Directors, Delaware Township Citizens Against the Pipeline
Patricia Cronheim, Hopewell Township Citizens Against the PennEast Pipeline
Deborah Kratzer & Maureen Syrnick, Kingwood Citizens Against the Pipeline
Cathy Urbanski & Michael Spille, Board of Trustees, West Amwell Citizens Against the Pipeline
Laura D. Wilson, President, HALT

Cc:

Ruth Foster, Director of Permitting and Environmental Review, NJDEP

ruth.foster@dep.nj.gov

John Gray, Deputy Commissioner, NJDEP, john.gray@dep.nj.gov

Congressman Leonard Lance

Congresswoman Bonnie Watson Coleman

New Jersey Highlands Council

New Jersey Senator Shirley Turner

Assemblyman Reed Gusciora

Assemblywoman Elizabeth Maher Muoio

New Jersey Senator Michael Doherty

Assemblyman Erik Peterson

Assemblyman John DiMaio

New Jersey Senator Kip Bateman

Assemblyman Jack Ciattarelli

Assemblyman Andrew Zwicker

Holland Township NJ Committee

Alexandria Township NJ Committee

Kingwood Township NJ Committee

Delaware Township NJ Committee

West Amwell Township NJ Committee

Hopewell Township NJ Committee

Page 5 of 6

Hunterdon County Freeholders
Mercer County Freeholders