



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Water Supply and Geoscience

New Jersey Geological and Water Survey

Mail Code: 29-01

29 Arctic Pkwy

PO Box 420

Trenton, NJ 08625-0420

Tel. # (609) 292-1185 – Fax (609) 633-1004 – Home Page: <http://www.njgeology.org/>

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

HEARING OFFICER'S REPORT

TO: Patricia Gardner, Director
Division of Water Supply and Geoscience

FROM: Joseph A. Miri, Ph.D., Hearing Officer

IN THE MATTER OF: Temporary Dewatering Permit No. 1322D
Transco Expansion Project
Chesterfield and Bordentown Townships, Burlington County

In compliance with the provisions of N.J.S.A. 58:1A-1 et seq., Transco Expansion Project, 2800 Post Oak Blvd., Houston, TX, 77056, filed an application with the Department of Environmental Protection on Dec. 8, 2015 and an amended application on February 16, 2016 for approval of plans to divert a maximum of 7 million gallons of water during any month (mgm) at a maximum rate of 6,830 gallons per minute (gpm) from a series of approximately 34 trenches; 2 feet to 13 feet deep. The trenches are mainly located in Chesterfield Twp. with a small portion in Bordentown Twp., Burlington County.

The diversion is for temporary dewatering for the construction of a gas compressor station, metering station and associated tie-in, electrical conduit and other appurtenances.

PUBLIC HEARING

A notice of Application and Public Hearing was published on April 10, 2016 in the Burlington County Times. A public hearing was held on April 26, at the Chesterfield Elementary School, 30 Saddle Way, Chesterfield, N.J. 08515.

SUMMARY OF COMMENTS

Substantive comments made at the hearing and in other communications related to: 1) the water allocation process, mechanics and requirements; 2) public interest; 3) the role of federal, state, county and local regulatory bodies; 4) impacts and effects of the diversion; 5) ownership of land by Bordentown Township; and 6) miscellaneous.

Allocation Process, Mechanics and Requirements

Regarding some of the amendments to the application made by the applicant, the Bureau noted that these were prompted by an initial review by the Bureau. Regarding the need for the diversion of this size, The Bureau indicated that it addresses the issue of whether a dewatering request is adequate for the stated purpose during the technical review to either confirm the quantities or have them amended to be more concise and specified. It also said that it takes into consideration peak potential demands of the project in developing and approving allocation limits. Concerning comments that the 10-month duration should not be considered temporary, the Bureau responded that the proposed duration of dewatering is considered temporary in accordance with N.J.A.C. 7:19 and may begin on the permit's effective date or later and continue for approximately 10 months and is considered temporary as a result of constructed related activities.

Multiple comments were made that the applicant's estimate of the quantity of water to be diverted monthly of up to 7 mgm was an error, did not match the Technical Report or was considered excessive. In response, the Bureau indicated that it is agreeable with the diversion rate of 7 mgm. It anticipates that much less may be diverted per month, but it is recommended as standard practice that the applicant's monthly request should not be on the conservative side and be more liberal, in case there is more water encountered than is calculated or where large quantities of stormwater are encountered.

A number of comments were received that the maximum diversion rate was too large, there was an error in calculating it and it would adversely affect other users. The Bureau, in response, indicated, among other points, that it doesn't anticipate that the applicant will divert up to its allocation monthly limit or pump at the maximum diversion rate, based on the known parameter and characteristics of the surficial Pensauken Formation and the underlying confining Merchantville-Woodbury Formation.

In response to comments that were submitted that aquifer testing should be done, the Bureau noted that under the relevant regulations, aquifer testing is not required for a temporary dewatering permit for construction. It also indicated that it reviewed the project technical information in order to make an informed decision on the application. It noted that it is standard procedure to seek findings of fact, remedy any inaccuracies and confirm statements and analyses for technical completeness pursuant to relevant regulations.

Multiple comments were received that NJDEP should conduct its own investigation at the project site and not rely on the applicant's information and that soil and water testing before and after the project is constructed. In addition to referring to responses to other comments, the Bureau responded that it conducted a thorough evaluation of the information submitted and that the applicant carried out a detailed investigation to determine the number of wells surrounding the site, which the Bureau confirmed.

Numerous comments were received as to who would be legally and financially responsible for any local well that is impacted by the proposed diversion. The response was that pursuant to water allocation regulations, Transco is required to have a Contingency Plan in place ensuring that a sufficient temporary supply of potable water is readily available if other water users are adversely impacted. Also, pursuant to regulation and permit requirements, Transco must repair or replace any well or surface supply which is damaged or goes dry, has reduced capacity or reduced water quality, or is otherwise rendered unusable as a result of the diversion.

In response to various comments, the Bureau responded that a) a Water Conservation and Drought Management Plan is not required for temporary diversion requests; b) the Delaware River Basin Commission is not required to review and approve a temporary diversion application; and c) the engineering plans, specifications and engineer's report submitted for this project by the applicant's consultant comply with NJDEP rules and regulations.

Public Interest

Many comments were made that the project is not in the public interest. The Bureau stated that the applicant submitted information that the temporary diversion is necessary to safely construct the project which the Bureau considers to be in the public interest. In accordance with N.J.A.C. 7:19-2.3(g) the project itself is not required to be demonstrated to be in the public interest, only the proposed diversion.

Role of Federal and Other State Regulatory Bodies

Comments were made that the Federal Energy Regulatory Commission (FERC) should have postponed issuance of its certificate until NJDEP permits were reviewed and approved. Other comments were made that FERC and the N.J. Board of Public Utilities failed to do a comprehensive examination of the potential negative effect of this project and the proposed Southern Reliability Link (SRL) pipeline and that the SRL and this project need to be analyzed together for their cumulative potential impact on the environment. The Bureau responded that the N.J. Natural Gas SRL project will be reviewed on its own merits and will be required to obtain the necessary approvals solely related to that project.

Impacts and Effects

Comments were made that the radius of influence (ROI) of the pumping will be greater than the 400 feet indicated by the applicant. In response, the Bureau stated that the trenching will be sequential, and is consistent with standard construction practices. Therefore, the Bureau doesn't anticipate any of the calculated ROI's to be larger than the calculated 400 feet. The Bureau noted that multiple ROI's may overlap but since the diversion is temporary and the dewatering activities are phased, it is not expected that there would be groundwater influence off site.

Numerous comments were made that the project is not just and equitable to local residents and to other water users. In addition to references to responses made to other comments, the Bureau noted that the applicant's consultant submitted a Contingency Plan to address any existing local groundwater users being adversely impacted by the proposed diversion. Per the plan, sentinel wells have been installed so that changes in water levels would be identified onsite and dewatering actively modified prior to impacting offsite wells.

Multiple comments were received that the proposed diversion will lower the water-table, impact the aquifer and Sucker Run and one of its tributaries. In response, the Bureau described the nature and purpose of dewatering. It then explained that Sucker Run is an intermittent stream which has a 7Q10 of 0, as does its smaller tributary, and indicated that, as such, is not recommended for a large-volume user of surface water. The Bureau noted that no downstream surface water intakes were identified. The Bureau indicated that as the diversion is temporary it is not expected to exceed the long-term replenishment of groundwater in the area or adversely affect any stream or tributary. Also, the Bureau cited its responses to several other comments.

There were multiple comments that the diversion would cause the spread of groundwater contamination. In response, the Bureau indicated that, after reviewing additional information from the applicant's consultant, the diversion will not spread groundwater contamination and will not interfere with any groundwater remediation efforts.

Many comments were made concerning the water being discharged. In response, the Bureau noted that the applicant has applied for a permit from the Division of Water Quality (DWQ), which will require a certification and the untreated discharge laboratory analysis to be submitted at least 14 days prior to discharge. Also, a stormwater management permit was approved by DWQ and requires a Stormwater Pollution Prevention Plan. In addition, a Soil and Erosion Sediment Control Plan was applied for from the Burlington County Soil Conservation District, according to the applicant. Under relevant regulations and the water allocation permit, diversion and discharged water quantities are required to be reported.

Regarding comments on the potential impacts to the freshwater wetlands, local flora and fauna and threatened or endangered species, the Bureau stated that it forwarded a copy of all comments and photographs to the Division of Land Use Regulation (DLUR) on June 10, 2016 for their review and consideration in evaluating their permit applications for this facility. Two additional public hearing hearings were held by the DLUR on October 13 and 17, 2016. DLUR issued the Freshwater Wetlands Individual Permit – Water quality Certificate March 13, 2017. Potential impacts to Freshwater Wetlands are under the purview of DLUR.

Ownership of Land by Bordentown Township

Bordentown Township commented that Transco has no legal rights and no permission from Bordentown Twp. to conduct any activity on its lot, which is located within the project site and which it purchased with the help of Green Acres funds. The Bureau stated that part of the project is within an area of Green Acres encumbered land, particularly Tax Block 204, Lot 3.02 of the 2017 Chesterfield Township tax map, which is owned by Bordentown Township. Pursuant to the Federal Energy Regulatory Commission (FERC) issuance of a "Certificate of Public Convenience and Necessity" and the subsequent court order dated February 16, 2017 incorporated herein by reference, the District Court has determined that Transco duly exercised its power of eminent domain for this property. Further, pursuant to the Court's order, Transco has agreed to, among other conditions, compensation pursuant to both the Green Acres diversion and the New Jersey State House Commission formulas. The diversion process shall not delay construction of the permitted project.

Miscellaneous

Comments were made on the safety and risk of the construction and operation of the compressor station, metering station and the Penn East pipeline. The Bureau responded that proper dewatering during construction is essential for the safe construction and operation of the project. The Bureau stated that Temporary Dewatering permit 1322D will aid in the dewatering activity for the construction of the project to be accomplished in a safe manner. The safety of the operation of the project after construction is beyond the purview of the Temporary Dewatering permit. The Bureau responded that the Penn East Pipeline will be reviewed on its own merits and will be re-

quired to obtain the necessary approvals solely related to that project. Comments were also received on the impacts of the project regarding weather patterns, precipitation, flooding and drought. The Bureau responded that these comments are beyond the purview of the Temporary Dewatering permit.

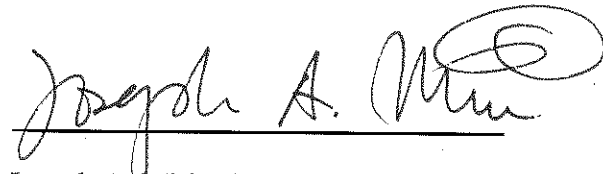
Comments were received on the need for DEP to purchase hazard insurance to cover remediation and cleanup in case of contamination; regarding noise and air pollution emitted by the project and wear and tear on roads; and on the radius and size of the blast zone, the burn-out of methane gas and evacuation plans due to these concerns. The Bureau responded that these comments are beyond the purview of the issuance of a Temporary Dewatering permit.

FINDING

The above accurately reflects the relevant substantive issues raised in the public hearing and written correspondence received by the Department concerning this application. The final Staff Report and the Staff Report Addendum contain the Bureau's responses to these issues. A review of these issues and the Bureau's responses indicates that it has adequately addressed the issues and has done so in a reasonable manner.

Date

3/12/17

A handwritten signature in black ink, reading "Joseph A. Miri". The signature is written over a horizontal line. The letter "M" in "Miri" is notably large and stylized, with a circular flourish at the top.

Joseph A. Miri, Ph.D.,

Hearing Officer