

Response to Public Comment dated October 26, 2012 by Highlands Coalition, NJ Chapter of the Sierra Club, Raritan Headwaters Association, Food & Water Watch, Fight the Pipe, 350 NJ, NO Gas Pipeline, Save the Park, ClimateMama

On September 20, 2012, the New Jersey Department of Environmental Protection (“NJDEP”) released a public notice soliciting comment on the proposed conversion of Land and Water Conservation Fund (“LWCF”)-funded parkland in connection with the construction of the Northeast Supply Link Project (“Project”) by the Transcontinental Gas Pipe Line Company, LLC (“Transco”). During the 30-day public comment period ending October 28, 2012, the NJDEP received one written comment. The comment was dated October 26, 2012 and was submitted jointly by the following organizations: the Highlands Coalition, the New Jersey Chapter of the Sierra Club, Raritan Headwaters Association, Food & Water Watch, Fight the Pipe, 350 NJ, NO Gas Pipeline, Save the Park, and ClimateMama, (collectively referred herein as “Commenters”)

As an initial matter, the NJDEP notes that several comments raised in the letter were previously submitted to and considered by the Federal Energy Regulatory Commission (“FERC”) as reflected in FERC’s November 2, 2012 Order granting Transco a Certificate of Public Convenience and Necessity (“Certificate”) authorizing Transco to construct, operate, and abandon certain pipeline and related facilities in connection with the Project. See the FERC Order, available at the FERC’s website at <http://elibrary.FERC.gov> (in Docket No. CP12-30-000). Given the issuance of the Certificate, the NJDEP has not responded separately to these issues.

The remainder of the Commenters’ concerns fell under the following general categories:

1. Impacts of the Project on LWCF-funded Property and the Highlands Region of New Jersey

As part of the issuance of the Certificate, FERC staff prepared an Environmental Assessment (“EA”) which was issued on August 1, 2012 and available at the FERC’s website at <http://elibrary.FERC.gov> (in Docket No. CP12-30-000). The EA assessed the environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (“NEPA”). While the FERC was the lead agency in preparing the EA, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, and the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration participated as cooperating agencies. These agencies reviewed resources potentially affected by the Project. As indicated in the EA and the Certificate, the FERC reviewed Transco’s construction and restoration plans and found them to be acceptable.

The Certificated Project includes the construction the Leidy Line “C” Pipeline loop, also known as the Stanton Loop, which will consist of 6.64 miles of 42-inch-diameter pipeline running parallel to the existing Leidy pipeline in Clinton, Franklin, and Union Townships in Hunterdon County, New Jersey. The majority of the Stanton Loop is within the New Jersey Highlands Region in Hunterdon County, New Jersey. Construction of the Project would affect

approximately 70.1 acres of primarily forest, open, and wetland land uses within the Highlands Region. However, as the Commenters acknowledge, Transco's first pipeline was built when the property in question was owned by a private landowner. Transco presently holds a sixty (60) foot wide easement within which there are two pipelines known as the Leidy Lines (A and B).

Current NJDEP policy recognizes that it is generally environmentally advantageous to remain within an existing right of way ("ROW") where such a ROW exists. Otherwise, new disturbance in previously undisturbed State and private property would occur. If a large infrastructure project is needed, as determined by either federal or State authorities, NJDEP's preference would be for that project to be built in (or alongside) an existing ROW so as to minimize the environmental impacts caused by such a project. Further detail on the NJDEP's policies concerning large linear infrastructure projects may be found at <http://www.nj.gov/dep/docs/linear-infrastructure-guidance201112.pdf>.

To minimize the impacts of the Project on resources in the Highlands Region, including the LWCF-funded property, Transco has agreed to implement a Project-specific Erosion and Sediment Control Plan, Upland Erosion Control, Re-vegetation, and Maintenance Plan, and Wetland and Waterbody Construction and Mitigation Procedures. In addition, Transco has committed to continuing coordination with the NJDEP for other construction and mitigation measures within the Highlands Region. Ultimately, the FERC has determined that the location of the Stanton Loop within the existing right-of-way, coupled with Transco's implementation of project-specific construction and restoration plans, will not result in significant impacts on resources within the Highlands Region. See FERC Order, 141 FERC ¶ 61,091, ¶46.

2. Adequacy of the Alternatives Analysis Prepared by Transco

As part of the LWCF Conversion Proposal, Transco undertook an alternatives analysis that considered a "no action" alternative, route and system alternatives as well as construction alternatives. Specifically, Transco analyzed the use of a horizontal directional drill ("HDD") to install the proposed pipeline underneath the LWCF parcel in order to avoid surface disturbance and eliminate or minimize the parkland conversion. However, the use of an HDD installation was determined to be infeasible because the site precludes the stringing of pipe to the east due to the turn in the pipeline alignment and the presence of apartments along the string path. Stringing of pipe to the west is also precluded due to the presence of the South Branch Raritan River. The FERC has also evaluated this determination and has concluded that an HDD at this location was technically infeasible, impractical, or would not result in a clear environmental advantage over the conventional construction method. See FERC EA, Section 3.8. For the same reasons stated herein for the HDD method of construction, the Direct Pipeline method (a trenchless, one-pass pipeline installation process that utilizes a precision-guided micro-tunneling head to install a section of pipeline into the borehole as it tunnels through the ground) at this location is technically infeasible, impractical, or would not result in a clear environmental advantage over the conventional construction method.

3. Cumulative Impacts of the Project

The Commenters have urged government agencies at every level to look cumulatively at the pipeline projects currently in the planning and construction stages. Although the LWCF

Conversion Proposal does not contain a cumulative impacts analysis since it is not required, one was conducted by the FERC in accordance with NEPA. In the cumulative impacts section of the EA, the FERC considered the impacts of the Project as well as other recently completed, ongoing and planned projects in the Project area on the development of natural gas from the Marcellus Shale region. The FERC noted that the Pennsylvania Department of Environmental Protection and the Susquehanna River Basin Commission (“SRBC”) have recently enacted regulations to specifically protect surface and groundwater resources from potential impacts associated with the development of the Marcellus Shale, and the DRBC is considering further regulation of Marcellus Shale drilling activities. In the Certificate, the FERC considered the cumulative impacts analysis set forth in the EA and agreed that, based on the implementation of specialized construction techniques, the relatively short construction timeframe in any one location, and carefully developed resource protection and mitigation plans designed to minimize and control environmental impacts for the Project as a whole, that only small cumulative effects are anticipated when the impacts of the Project are added to the impacts of other identified projects in the immediate area, including development of the Marcellus Shale. See Section 2.10.4 of the EA and #45 of the FERC Order.

4. Fracking

Throughout the approval process for the Project, the Commenters have expressed concern regarding the practice of “fracking”, pipeline construction and the treatment of wastewater used in fracking. As an initial matter, the NJDEP notes that Transco is a transporter of natural gas in interstate commerce, and is not involved in the drilling or production of the natural gas that will be transported through its pipeline facilities. Transco’s Project does not involve fracking, and in particular, there is no fracking on the LWCF property which is the subject of the Conversion Proposal.

As a cleaner and more cost-effective alternative to coal or oil, natural gas plays a significant role in New Jersey’s energy future. Governor Christie’s Energy Master Plan, which was released in final form in December 2011, encourages the development of in-state, natural gas-fired electrical power. This policy is aimed not only at reducing New Jerseyans’ energy costs, but also at protecting our environment by eliminating the need for power from coal states and accelerating the decommissioning of older, dirtier, and less efficient coal and oil-fired electrical generation plants in New Jersey. Natural gas is a much cleaner form of energy than coal or oil, emitting much less sulfur dioxide, fine particulates, volatile organic compounds (VOCs), and greenhouse gases than those energy sources. The environmental impacts of hydraulic fracking are under evaluation by the State of New Jersey as a result of Governor Christie conditionally vetoing legislation that would ban fracking in New Jersey. Although there is virtually no Marcellus shale formation in New Jersey, Governor Christie imposed a one year moratorium on hydraulic fracturing to further evaluate the potential environmental impacts of fracking in New Jersey as well as evaluate the findings of still outstanding and ongoing federal studies. During this moratorium, NJDEP is working with the DRBC to enact regional regulations to strictly regulate hydraulic fracturing that would take place in the Delaware River Basin, and which could affect our water supply and natural resources in that basin. We are currently working with DRBC members-- NY, DE, Pa. and the federal government--to come up with acceptable regulations. Additional detail about this effort is contained in an April 15, 2011 press

release from the NJDEP that may be accessed at http://www.nj.gov/dep/newsrel/2011/11_0051.htm.

The natural gas that will be transported along Transco's system, including its new pipeline, comes from various sources along Transco's system. Transco owns and operates an interstate natural gas transmission system which extends through the Southern and Atlantic Seaboard regions, terminating in the metropolitan New York City area. Transco built its first pipeline through New Jersey nearly sixty years ago and has a significant portion of its facilities sited in the State. Transco currently transports about half the natural gas consumed in New Jersey and New York City, and about a third of the gas consumed in Pennsylvania.

5. Adequacy and Timing of Compensation for the Proposed Conversion

As stated in the Conversion Proposal, Transco will provide compensation in the form of replacement land for the proposed conversion area (which consists of 1.228 acres of permanent right-of-way plus 0.991 acre of temporary workspace, totaling 2.219 acres.) As to the identification of replacement land, the LWCF Manual [found at <http://www.nps.gov/ncrc/programs/lwcf/manual/lwcf.pdf>] expressly provides that an exception to the immediate replacement requirement will be allowed "when it is not possible for replacement property to be identified prior to the State's request for the conversion." See LWCF Manual, Chapter 8.E.11. In such situations, the State must provide an "express commitment" to satisfy the land replacement requirements "within a specified period normally not to exceed one year following conversion approval." See LWCF Manual, Chapter 8.E.11. Since Hunterdon County would have been the ultimate recipient of the replacement land, NJDEP wants to give the County adequate opportunity to identify the replacement land for this conversion. In addition, the use of the exception to the immediate replacement requirement is critically important to Transco's ability meet its November 1, 2013 in-service date, as the federally approved window for tree clearing is October 1, 2012 to March 14, 2013.

The NJDEP is confident that it will be able to replace the 2.21 acres that are proposed for conversion. Between 2007 and 2011, the Green Acres State Land Acquisition Program acquired 2,026 acres in Hunterdon County and is currently negotiating the purchase of an additional 329 acres in the county.