



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.nj.gov/dep/landuse

September 4, 2019

Anthony C. Cox, V.P.
PennEast Pipeline Company, LLC
835 Knitting Mills Way
Wyomissing, PA 19610

RE: File and Activity No.: 0000-17-0007.5 LUP190001, FWW190001
Applicant: PennEast Pipeline Company, LLC
Project: Construction of approximately 37.8 miles of natural gas pipeline
Hunterdon & Mercer Counties

Dear Mr. Cox:

The Division of Land Use Regulation (Division) has received the above-referenced application for a Freshwater Wetlands Individual Permit, Transition Area Waiver, Flood Hazard Area Individual Permit, Flood Hazard Area Verification, and Letter of Interpretation (FWW190001). Upon review of the materials submitted, the Department has determined that all necessary information required for a complete application has not been provided and/or one or more submitted items are deficient as noted below. In order for this application to be declared "administratively complete", please submit the following:

1. As per the Freshwater Wetlands Protection Act Rules (specifically N.J.A.C. 7:7A-16.2(g)) and the Flood Hazard Area Control Act Rules (specifically N.J.A.C. 7:13-18.2(g)), if an application includes activities within a right-of-way or easement, the application shall include written consent for the activity from the holder(s) of the right-of-way or easement.

The applicant has received the "Certificate of Public Convenience and Necessity" from the Federal Energy Regulatory Commission (dated January 19, 2018). This document allows the applicant, PennEast Pipeline Company, LLC, to apply for any permits required for the project however, the applicant must secure either right of way agreement or order of condemnation for each of the properties along the proposed alignment.

Upon review of the submitted deeds, the deeds with either the associated right of way agreement or order of condemnation for Block 60, Lot 3, Block 60, Lot 29.01, Block 61, Lot 49, and Block 62, Lot 3 in Hopewell Township, Mercer County, Block 13, Lot 16.01 and Block 28, Lot 13 in Kingwood Township, Hunterdon County, and Block 5,

Lot 26 in West Amwell Township in Hunterdon County were not included in the application package.

Prior to this application being declared “administratively complete”, please submit the deeds for the seven (7) properties listed above along with either the associated right of way agreement or order of condemnation.

2. As per the Freshwater Wetlands Protection Act Rules (specifically N.J.A.C. 7:7A-17.3(b)6) and the Flood Hazard Area Control Act Rules (specifically N.J.A.C. 7:13-19.6(b)6), the applicant shall include as part of the public notice documentation “a certified list of all owners of real property, including easements, located within 200 feet of the property boundary of the site (including name, mailing address, lot, and block) prepared by the municipality for each municipality in which the project is located. The date of certification of the list shall be no earlier than one year prior to the date the application is submitted to the Department”.

The application package did not include the certified list of all owners of real property, including easements, located within 200 feet of the property boundary of the site for Delaware Township, Holland Township and Hopewell Township. Prior to this application being declared “administratively complete”, please submit the required “certified lists” for Delaware, Holland, and Hopewell Townships.

3. As per the Freshwater Wetlands Protection Act Rules (specifically N.J.A.C. 7:7A-17.4(b)6)) and the Flood Hazard Area Control Act Rules (specifically N.J.A.C. 7:13-19.4(b)6), the applicant shall include as part of the required newspaper notice, a list of each lot, block, municipality, and county where the proposed, regulated activity or project will occur.

Upon review of the deeds included in the application, the deed for Block 53, Lot 2 in Delaware Township, Hunterdon County (Parcel 1007-53-2) was included. This parcel includes a “temporary workspace” of 0.11 acres located on it. This parcel was not included in the “List of Parcels along the Route” which was an addendum to the Land Use application form nor was the parcel listed in the newspaper notices which were required as part of the public notification.

Also, upon review of the tax maps submitted to secure the 200 foot notification list, Block 61, Lot 49 and Block 60, Lot 29.01 in Hopewell Township, Mercer County, includes portions of the proposed pipeline route. These parcels were not included in the “List of Parcels along the Route” which was an addendum to the Land Use application form. Nor were the parcels listed in the newspaper notices which are required as part of the public notification.

Prior to this application being declared “administratively complete”, please submit a revised “List of Parcels along the Route” adding the omitted parcels. In addition, due to the omission of these parcels from the required newspaper notices, please submit proof that the newspaper notices have been re-published and now include Block 61, Lot 49 and Block 60, Lot 29.01 in Hopewell Township, Mercer County and Block 53, Lot 2 in Delaware Township, Hunterdon County.

4. The Flood Hazard Area Control Act Rules (specifically N.J.A.C. 7:13-1.2), define “temporary” as a regulated activity that occupies, persists, and/or occurs on a site for no more than six months. Pursuant to N.J.A.C. 7:13-2.1, a regulated activity in a regulated area requires a flood hazard permit or authorization. This section of the rules lists several exceptions to requiring a permit or authorization, but none of those includes temporary projects or temporary portions of projects. N.J.A.C. 7:13-12.7 is the portion of the rules dedicated to bridge and culvert projects. It does not exempt temporary bridges or culverts from regulation. Therefore, hydrologic and hydraulic calculations are required pursuant to this section of the rules unless the applicant can demonstrate that a qualitative analysis is sufficient.

Each of the proposed bridges/culverts requires an Individual Permit review therefore, pursuant to N.J.A.C. 7:13-20.1, additional fees are required. If the Division determines that no numerical analysis is required, then the fee is \$1000 per structure. Any type of hydraulic/hydrologic analysis that is required equates to a fee of \$4,000 per structure. Please note that the fees are required for each bridge/culvert over each regulated water regardless of contributory drainage area.

Prior to declaring this application “administratively complete”, please submit additional fees for each bridge crossing over every regulated water as defined at N.J.A.C. 7:13-2.2, in accordance with the above.

You are advised that the final determination regarding the need for hydraulic/hydrologic calculations is at the Department’s discretion.

5. In order to demonstrate compliance with the Freshwater Wetlands Protection Act Rules (specifically N.J.A.C. 7:7A-10.2(b)), the Department shall issue an individual freshwater wetlands or open water fill permit only if the regulated activity will not adversely affect a property that is listed or is eligible for listing on the New Jersey or National Register of Historic Places.

Upon review of the information submitted to address historical and archeological resources, it was determined that additional information is required prior to the Division declaring the Freshwater Wetlands Individual Permit application “administratively complete”. Please submit the following:

- a. The applicant states that the identification of historic architectural properties along the pipeline route is complete; however, additional information is required to verify this claim. Specifically, a summary that includes a complete list of all tax parcels in sequential order along the alignment identifying whether or not they were included in the survey effort and, if not, an explanation of why the property(s) were omitted (e.g., no buildings present, building(s) less than 50 years old, access denied by property owner) is required. The summary shall also describe the historic architectural survey methodology for the entire project.

Prior to this application being declared “administratively complete”, please submit the above outline summary.

6. Please be advised that the Division received the attached letter from the Mayor of Kingwood Township stating that the town did not receive a complete copy of the permit

application. Please review the letter and ensure that the town receives a complete copy of the application.

Upon review of the application package it was determined that a separate Freshwater Wetlands Transition Area Waiver application is not required. It is suggested that you withdraw this portion of the application package. In addition, the fees for stormwater review are statutorily capped at \$20,000 and \$22,500 was submitted - \$2,500 in excess. You may submit a refund request for these portions of the submitted fees or apply the fees to any additional fees required for the project.

Please address the missing or incomplete materials and/or address any deficiencies and submit the requested information within 30 days from the date of this letter so that the Department may commence processing this application. Failure to provide the information within the 30-day time period may result in the administrative closing of this application.

Please be advised the original application and a copy of this rejection letter are being returned to the agent and should be re-submitted with the requested information to my attention.

If you have any questions regarding this letter, please contact me by email at patricia.cluelow@dep.nj.gov. Please reference the Division's file number in all communication.

Sincerely,



for Patricia Cluelow, Supervisor
Application Support Unit
Division of Land Use Regulation

c: Peter J. Fontaine, Esq.
Cozen O'Connor
One Liberty Place
1650 Market Street
Philadelphia, PA 19103

Walter F. Judge, PE, PP, PMP
PS&S
Central Monmouth Business Park
1433 Highway 34, Suite A-4
Wall, NJ 07727

TOWNSHIP OF KINGWOOD

Committee Meeting:
First Thursday of Each Month – 7pm
Municipal Building:
Corner of Rt. 519 & Oak Grove Rd.
Fax: (908) 996-7753



Address Reply To:
Cynthia L. Keller, RMC
599 Oak Grove Rd
Frenchtown, NJ 08825
Phone: 908-996-4276 x 221

August 27, 2019

New Jersey Department of Environmental Protection
Division of Land Use Regulation
PO Box 420, Code 501-02A
Trenton, New Jersey 08625
By email: penneastcomment@dep.nj.gov

Re: Proposed PennEast Pipeline Project Multi-Permit Application

Dear Assistant Commissioner Kopkash and Staff:

Kingwood Township received a copy of PennEast's application to the NJDEP for water crossing and wetland permits. On Page 7 of Volume I, PennEast asserts that a complete copy of their application was sent to municipal clerks in impacted townships. For the record, the application that was sent to Kingwood Township was incomplete. Missing items included Attachment J-1 (Habitat Protection Plan), Attachments N-1 and N-2 (Conceptual Mitigation Plans for Warford Creek and Croton Creek), Attachment O-2 (Reconnaissance-Level Historic Architectural Survey Report) and Attachment U (electronic copy of application).

While the paper copy of the application was delivered to Kingwood Township within a week of their submission to the Department, the CD of the application indicated in the document Attachment U was not included in the materials received by our township.

The absence of a digital copy as given to the Department creates significant hardship for impacted landowners, residents and township commission members who, instead of being able to access the materials electronically at their convenience, must take off work on multiple occasions to present in person at their township clerk's office during business hours, and attempt to find the information they seek by navigating by hand through the many, massive binders which contain the application.

In addition to the missing items listed above, per NJDEP checklists, all Office of Land Use Permit applications must include a computer disk as part of any paper applications. And furthermore, 7:7A-17.3 Contents and recipients of public notice of an application (a) For any of the applications listed in N.J.A.C. 7:7A-17.1(a), the applicant shall provide a copy of the entire application, as submitted to the Department [emphasis added], to the municipal clerk in each municipality in which the site is located.

If an application must include a CD, and if the impacted municipalities must receive the entire application as submitted to the Department, then the municipalities must receive the CD.

Sincerely,

Thomas Ciacciarelli, Mayor
CC: Peter Fontaine, Esq., PennEast

Ruth.Foster@dep.nj.gov, Commissioner@dep.nj.gov, debbie.mans@dep.nj.gov, Constituent.relations@nj.gov