



July 20, 2015

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Re: DEP's Section 401 Water Quality Certification for Williams Transco Atlantic Sunrise Pipeline – FERC Docket No. CP15-138

Dear Mr. Buczynski:

Thank you for the opportunity and consideration of Delaware Riverkeeper Network's comments regarding the Pennsylvania Department of Environmental Protection's (DEP) water quality certification 30-day notice posted in the PA Bulletin in regard to the building and construction of Transcontinental Gas Pipeline Company, LLC.'s (Williams -Transco) proposal to construct a new 190.8 mile high pressure 30-inch, 36-inch, and 42-inch transmission natural gas pipeline that if permitted, would cut through nine counties of the Commonwealth. According to Transco's October Resource Reports, over 3,507 acres will be impacted during construction of the Atlantic Sunrise pipeline, its above ground facilities, and modified above ground facilities. This project if permitted, will have significant adverse environmental impacts, safety issues, air and climate change impacts, economic ramifications, permanent impacts on scenery, and threaten drinking water sources, groundwater wells, water quality, and septic systems of the Commonwealth. We object to DEP's proposal to issue the water quality certification for the Atlantic Sunrise pipeline project and we urge the DEP to deny this certification and we outline several reasons to do so below.

In addition to these comments on the certification, DRN is submitting for DEP consideration past comments made on the Federal Energy Regulatory Commission (FERC) docket in regard to segmentation and related pipeline projects, like the Leidy Transco Pipeline that would be interconnected with sections of the proposed Atlantic Sunrise pipeline. The Atlantic Sunrise project is one of three applications and pipelines FERC has certified or is reviewing that Transco has filed that will impact Pennsylvania since the Leidy Southeast Expansion. Each of these projects leap-frog on the Leidy Pipeline system and the planned Atlantic Sunrise project would add looping sections of pipeline filling in gaps along Transco's Leidy line system, which

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would be located along some of the same geographic corridor as the Project. DRN's scoping comments for Atlantic Sunrise (dated August 16, 2014) requested that FERC include a consideration of impacts resulting from all inter-related projects, including Cove Point, and their potential overlapping zones of impact, in its review of the Atlantic Sunrise Project. By considering the environmental impacts of these five inter-related and functionally inter-dependent projects in separate NEPA documents, rather than completing a full Environmental Impact statement to review upgrading the Leidy line system as a whole that includes the Atlantic Sunrise Project, FERC is unlawfully segmenting its analysis in violation of its obligations under NEPA. It is important and critical with such a proposed build out of pipelines in the Commonwealth to move natural gas abroad and to other markets, and with FERC's track record of this improper segmentation as evidenced in successful litigation brought by Delaware Riverkeeper Network, that DEP also consider these other pipeline projects and the environmental impacts they will cause cumulatively as part of the state's permitting and certification process in order to best protect the Commonwealth from the rampant gas pipeline projects that are being considered, already built, or being built in the state. The court held that the Commission (FERC) violated NEPA by: "(1) segmenting its environmental review of the Northeast Upgrade Project – i.e., failing to consider the Northeast Upgrade Project in conjunction with three other connected, contemporaneous, closely related, and interdependent Tennessee Gas pipeline projects – and (2) failing to provide a meaningful analysis of the cumulative impacts of these projects to show that the impacts would be insignificant" (Delaware Riverkeeper Network, et. al. v. Federal Energy Regulatory Commission, Tennessee Gas Pipeline Company). In the months since the D.C. Circuit first ruled against FERC in June of 2014, FERC has yet to take any public action on the Court ordered remand of the Tennessee Gas Pipeline. Therefore, DRN argues that FERC has continued its practice of segmenting its environmental reviews of pipeline projects, including the Leidy Southeast Expansion Project and the Atlantic Sunrise Pipeline Project. It is critical with this lack of thorough oversight at the federal level and potential segmentation continuing, that DEP use all regulatory measures in its authority to consider the wetlands and stormwater impacts through, for example, Chapter 105 and Chapter 102 regulations. Because the Commonwealth has also permitted over 8,000 unconventional gas wells drilled that has led to over 250 instances of water contamination, it is also critical that DEP use its authority and consider these beginning of pipe and end of pipe impacts that fracking is causing and will exacerbate if these additional pipelines are permitted by DEP.

In addition to cumulative impacts and segmentation concerns that jeopardize Commonwealth resources, the process DEP appears to be using with this proposed certification and notice to certify that the construction, operation and maintenance of the Atlantic Sunrise Project complies with the applicable provisions of the Federal Clean Water Act appears putting the cart-before-the-horse since DEP appears to be relying on Transco's future actions – actions and permit applications that have not been completed, submitted, reviewed and approved by the DEP and other regulatory agencies. Standard procedure in granting Section 401 water quality certifications in Pennsylvania is for PADEP to issue the Section 401 water quality certification as part of the permitting process under the Dam Safety and Encroachments Act, which is Chapter 105 of the Pennsylvania Code. *See Pennsylvania Environmental Law and Practice*, ch. 6-4.4 (8th ed. 2015) ("DEP issues its section 401 certifications as part of the permits given under the Dam Safety and Encroachments Act"). To the extent PADEP issues a Section 401 Certification for a proposed pipeline project prior to issuing a Chapter 105 Water Obstruction and Encroachment permit, PADEP is acting in direct contravention of its own procedures. Indeed, there is no procedure recognized in the Pennsylvania Code that allows for separate review of a Section 401 water quality certification and Chapter 105 and/or Chapter 102 permits. As such, it is unlawful for PADEP to issue the Section 401 Certification before receiving final plans and other critical information necessary to ensure that Pennsylvania's water quality standards have been complied with pursuant to Chapter 105 and Chapter 102. DRN filed a lawsuit against the DEP on May 5, 2015 alleging the DEP improperly issued a Clean Water Act Section 401 Water Quality Certification for the Leidy Southeast Pipeline – another Williams-Transco large scale natural gas pipeline

project. The briefing for the case, Delaware Riverkeeper Network, et al.v. Pennsylvania Department of Environmental Protection, et al.(Docket No. 15-2122), is scheduled to conclude in late August with disposition of the matter to take place in the last week of September.

We urge the DEP, in light of the large impacts and fragmenting nature of this extensive project that would cut through 9 counties of the state, a much longer and broader comment period for the public to be able to weigh in on the record is needed before DEP issues such a certification. Furthermore, since the certification seems to rely on Transco obtaining certain permits in the future and putting in applications that have yet to be submitted or available for review—means that the public cannot adequately respond to Transco’s plans. Alternate pipeline routes and even landowners who will be greatly impacted by this project as the pipeline proposed to cut through people’s properties, still have many questions and have yet to have all the information they need to adequately respond and comment to the full impacts this pipeline is proposing to inflict on residents of Pennsylvania. Supplemental data packages and information is still being filed by Transco which means again, the public does not have all the information they need to adequately comment on this project. For example, on July 21<sup>st</sup> 2015, supplemental data packages including maps of fragmentation and interior forest impacts among other filings by Transco were filed on the FERC docket – this certification and public timeline does not allow adequate time for the public to be able to review and check these documents to be able to provide important and substantive comment. The same can be said for Transco’s plans shared on June 8, 2015 regarding what appears to be HDD plans for only two stream crossings for the entire Atlantic Sunrise route – that of just the Susquehanna River and Conestoga River only. This pipeline would cut across many important waterbodies and wetlands and for Transco to only be proposing HDD for two streams, is woefully inadequate and jeopardizing waters of the Commonwealth. The Chapter 105 requirements for this project, again are far from fully identified, completed or reviewed for this public comment timeframe and Transco’s own filing on June 8, 2015 to the FERC docket states that “it is currently developing the HDD contingency plan for the Conestoga River in coordination with USACE and that it will provide a plan for the crossing in a supplemental filing following coordination with USACE”.

Furthermore, DEP’s own newly formed “Pipeline Taskforce” identified in its first meeting this week that better and more meaningful public participation was needed with pipelines. “Pennsylvania will see as many as 30,000 miles of new pipeline built over the next 20 years to take...gas resources of the Marcellus and Utica Shales to market,” the Department of Environmental Protection Secretary, John Quigley, said. The panel’s goals include routing pipelines to minimize community and environmental impacts; facilitate “meaningful” public participation, and create a system of “predictable and efficient” permitting. Quigley also said the task force is not intended to produce more regulation on the gas industry (<https://stateimpact.npr.org/pennsylvania/2015/07/22/new-task-force-seeks-to-manage-massive-buildout-of-pipelines/#more-35468>, July 22, 2015). Secretary Quigley stated he expects the industry to add 20,000-25,000 miles of gathering lines, smaller pipelines that connect gas wells to processing plants or main transmission lines. He said an additional 4,000 to 5,000 miles of interstate pipelines will be built over the next 20 years. Secretary’s comments came after the 48-member task force heard a presentation on its mission that aims to deliver a report on pipeline development to Gov. Tom Wolf by February 2016. According to StateImpact, the panel includes industry representatives, federal, state and local government officials, end-users, state lawmakers, farmers, and emergency preparedness officials.

For these reasons we object to DEP issuing a water quality certificate for the Atlantic Sunrise pipeline project. We also urge the DEP to provide more time for the public to weigh in on this very large project in a meaningful way since so many people and resources will be impacted by this pipeline that will cause irreversible damage and a long legacy of resource extraction. Issuance of only a 30-day comment period during the summer months means many have missed the opportunity to comment, the pipeline application

process is just beginning, and therefore there should be more time for the public to contribute important and meaningful information for the DEP to consider as Williams -Transco continues to submit applications and supplemental information on the record on the harm it plans to inflict to the Commonwealth. Thank you for your time and consideration of our comment and we look forward to providing more review as information becomes more available. Please feel free to contact me at 215-369-1188 or [keepermaya@delawariverkeeper.org](mailto:keepermaya@delawariverkeeper.org) at the above address for any other matters related to our comment.

Sincerely,



Maya K. van Rossum  
the Delaware Riverkeeper  
Delaware Riverkeeper Network