


Curtin & Heefner LLP
ATTORNEYS AT LAW

2005 S. EASTON ROAD • SUITE 100 • DOYLESTOWN, PA 18901

(267) 898.0570 • (800) 773.0680 • FAX (215) 340.3929

WWW.CURTINHEEFNER.COM

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MARK L. FREED

mlf@curtinheefner.com

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Via Email and First Class Mail

Joseph J. Buczynski, P.E.
Waterways and Wetlands Program Manager
Pennsylvania Department of Environmental Protection
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA 18701-1915

**RE: Public Comments
Transcontinental Gas Pipe Line Company, LLC
Atlantic Sunrise Pipeline Project
Water Obstructions and Encroachments
Application Nos. E40-769 and E66-160**

Ms. Geraldine Nesbitt respectfully submits the enclosed comments, prepared by Meliora Design (Meliora Comments) on the Transcontinental Gas Pipe Line Company, LLC (Transco), Atlantic Sunrise Pipeline Project (Project), Water Obstructions and Encroachments Application Nos. E40-769 and E66-160, related to the significant and unwarranted water quality impacts resulting from proposed wetland and stream water obstructions/encroachments related to the project.

In addition, Ms. Nesbitt respectfully submits, and incorporates herein by reference, amended corrective comments submitted by her in response to the Federal Energy Regulatory Commission's (FERC) Draft Environmental Impact Statement (DEIS), and comments submitted by her in response to the applicant's Section 404 permit application. The DEIS and Section 404 comments further support the Meliora Comments on water quality impacts and, in addition, identify other significant impacts from the proposed project that are inconsistent with the Department's Dam Safety and Waterway Management regulations, 25 Pa. Code § 105.1, *et seq.*

(Chapter 105 Regulations). Among other things, the Meliora, DEIS and Section 404 comments demonstrate that the applicant has failed to adequately:

1. Provide a detailed analysis of alternatives to the proposed action, including alternative locations, routings or designs to avoid or minimize adverse environmental impacts. 25 Pa. Code § 105.13(e)(1)(viii);
2. Identify mitigation actions. 25 Pa. Code § 105.13(e)(1)(xi);
3. Provide a detailed analysis of the potential impacts of the proposed project on water quality, stream flow, fish and wildlife, aquatic habitat, Federal and State forests, parks, recreation, instream and downstream water uses, prime farmlands, areas or structures of historic significance, streams which are identified candidates for or are included within the Federal or State wild and scenic river systems and other relevant significant environmental factors. 25 Pa. Code § 105.13(e)(1)(x);
4. Demonstrate that the project – which traverses karst terrain containing significant sinkholes and abandoned mine lands with ongoing mine fires -- will not cause a threat to life or property. 25 Pa. Code 105.14(b)(1);
5. Demonstrate that the project will not adversely impact the riparian rights of owners upstream, downstream or adjacent to the project, such as the water that serves Ms. Nesbitt's significant silvaculture operations. 25 Pa. Code 105.14(b)(3);
6. Demonstrate that the project will not adversely impact natural areas, wildlife sanctuaries, public water supplies, other geographical or physical features including cultural, archaeological and historical landmarks, National wildlife refuges, National natural landmarks, National, State or local parks or recreation areas or National, State or local historical sites, such as the area's rare and sacred Native American stone landscapes. 25 Pa. Code 105.14(b).
7. Demonstrate that the project is consistent with State antidegradation requirements contained in Chapters 93, 95 and 102. 25 Pa. Code 105.14(b)(11);
8. Consider the cumulative impact of the project and other potential or existing projects. 25 Pa. Code 105.14(b)(14);
9. Provide an Environmental Assessment. 25 Pa. Code § 105.15;
10. Demonstrate that the public benefits of the proposed project outweigh the harm to the environment and public natural resources. 25 Pa. Code § 105.16(b). There is no "public benefit" from the proposed project. The project purports to serve the "development of energy resources." However, the 183-mile greenfield CPL will serve only one shipper, Cabot Oil & Gas Corporation (Cabot) which subscribed to the CPL's full 850,000 dt/day capacity. Cabot will use 350,000 dt/day to transport gas to Dominion's Cove Point, for export to Japan. Cabot will devote the remaining 500,000 dt/day capacity to its contract with WGL Midstream, under which Cabot

will transport Marcellus Gas to WGL Midstream. Therefore, at most, the CPL will benefit three private entities: Cabot, a producer and shipper, two Japanese utilities and WGL Midstream, a gas marketer. None of these entities will serve a public gas or even electric utility that sells to the public. The business and financial desires of those that are financially invested in the proposed project must not be confused with a "public benefit."¹

Even if the Department were to find that the project provides a public benefit (which it does not), such benefit clearly fails to outweigh the numerous and significant harms to the environment and public natural resources that will result from the project. Among other things, the project will destroy many of acres of wetlands and forest habitat for endangered species and migratory birds (including bog turtle habitat), and significantly impact streams, creeks and other waterways;

11. Demonstrate that the project, which is located within areas that serve as habitat for threatened or endangered species and in waters designed Exceptional Value, will not have an adverse impact on public natural resources. 25 Pa. Code § 105.16(c);

12. Affirmatively demonstrate that the project, which will affect Exceptional Value wetlands, is water-dependent (in fact, the project is not water dependent). 25 Pa. Code § 105.18a(a)(2);

13. Affirmatively demonstrate that there is no practicable alternative to the proposed project that would not involve a wetland or that would have less effect on the wetland, and not have other significant adverse effects on the environment. 25 Pa. Code § 105.18a(a)(3);

14. Affirmatively demonstrate that the cumulative effect of this project and other projects will not result in the impairment of the Commonwealth's Exceptional Value wetland resources. 25 Pa. Code § 105.18a(a)(6);

15. Affirmatively demonstrate that the project will not otherwise have a significant adverse impact on wetlands. 25 Pa. Code § 105.18a(b)(1);

16. Affirmatively demonstrate that there is no practicable alternative to the proposed project that would not involve a wetland or that would have less adverse impact on the wetland, and that would not have other significant adverse impacts on the environment. Pa. Code § 105.18a(b)(3). It shall be a rebuttable presumption that there is a practicable alternative, not involving a wetland, to a nonwater-dependent project (such as the present project), and that the alternative would have less adverse impact on the wetland. 25 Pa. Code § 105.18a(b)(3)(i);

¹Furthermore, both Cabot's and WGL Midstream's parent companies are majority owners of Meade LLC, which will co-own the CPL with Transco. Meade owns a 60% undivided joint interest in the CPL North and a 29% undivided joint ownership interest in CPL South. Transco Application at 7. If the Atlantic Sunrise Project is approved, Meade will lease its ownership share in the CPL to Transco so that Transco can provide 850,000 dt/day in transportation services to Cabot CPL's sole subscriber. See Transco- Meade Construction and Lease Agreement, online at <http://www.otcmarkets.com/edgar/GetFilingPdf?FilingID=9972284>.

17. Affirmatively demonstrate that the project is necessary to abate a substantial threat to the public health and safety. 25 Pa. Code § 105.18a(c);

18. Demonstrate that the project will adequately protect public health, safety and the environment. 25 Pa. Code § 105.21(a)(3);

19. Demonstrate that project or action is consistent with the environmental rights and values secured by Pa. Const. Art. I, § 27 and with the duties of the Commonwealth as trustee to conserve and maintain public natural resources of this Commonwealth. 25 Pa. Code § 105.21(a)(4). *See Robinson Township v. Commonwealth*, 623 Pa. 564, 83 A.3d 901 (2013);

Additionally, the Department has failed to coordinate the applications for and issuance of permits under Chapter 105 with permit processes conducted under other statutes and regulations administered by the Department and with permit processes administered by other Federal and State agencies. 25 Pa. Code § 105.24.

Finally, the applicant originally submitted its Chapter 105 applications in 2015. Thereafter the applicant significantly realigned the project on Ms. Nesbitt's property. The Chapter 105 applications reflecting the realigned project were not provided to Meliora during its review of the Department's documents in May of 2016. To the extent that the applicant has failed to revise the Chapter 105 applications to reflect the realignment, such failure should be fatal to the applications. To the extent that the applicant did modify the applications to reflect the realignment, such modifications should have been published in the *Pennsylvania Bulletin* and made available to Meliora. The failure to notice the modified applications and make them available for review has prejudiced Ms. Nesbitt and severely impacted her ability to meaningfully comment on the applications.

Based on the forgoing, and the Meliora, DEIS and Section 404 comments, it is clear that Transco's Chapter 105 applications must be denied by the Department.

Ms. Nesbitt respectfully requests that the Department hold one or more public hearings on the applications.

Thank you for your attentions to this matter.

Very truly yours,



Mark L. Freed, Esquire
For CURTIN & HEEFNER LLP

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