

**ORIGINAL**
**State of New Jersey**

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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*Governor*

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 CATHERINE R. McCABE  
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July 18, 2018

 Ms. Kimberly D. Bose, Secretary  
 Federal Energy Regulation Commission  
 888 First Street, NE  
 Washington, DC 20426

 Mr. Scott Horner  
 Williams Transco  
 2800 Post Oak Boulevard  
 PO Box 1396  
 Houston, Texas 77056

**RE: Transcontinental (Transco) Gas Pipeline Company  
 Northeast Supply Enhancement Project  
 Middlesex, Monmouth and Somerset Counties  
 FERC Docket #PF 16-5; CP-17-101-000  
 Comments on Supplemental Reports to Draft EIS**

 RECEIVED  
 SECRETARY OF THE  
 FEDERAL ENERGY  
 REGULATION COMMISSION  
 2018 JUL 31 A 9 11

Dear Ms. Bose and Mr. Horner:

On May 14, 2018, the New Jersey Department of Environmental Protection's (NJDEP) Office of Permit Coordination and Environmental Review (PCER) issued comments on the Draft Environmental Impact Statement (EIS) for the proposed Transco Northeast Supply Enhancement (NESE) Project. On May 30, 2018, the NJDEP distributed Supplemental Reports prepared by Transco and posted to the Federal Energy Regulation Commission (FERC) docket on May 11, 2018 in response to the FERC prepared Draft EIS. This project proposes the installation of 3.4 miles of natural gas pipeline looping in a predominantly existing right of way in Middlesex County (Madison Loop), 23.4 miles of pipeline in State waters of New Jersey and New York (Raritan Bay Loop), and one new compressor station (206) in Franklin Township, Somerset County. For the Raritan Loop, 0.16 miles is located on-shore and 5.96 miles is located offshore and in NJ waters. In addition, the NJDEP previously provided comments on the Draft Resource Reports (January 10, 2017) and on the Final Resource Reports (May 11, 2017) for this proposed project.

Based on the information provided in the Transco Supplemental Reports, we offer the following comments for your consideration.

**Land Use Regulation Program**

The Division of Land Use Regulation (Division) is currently reviewing for completeness permit applications for this project submitted to the Department on June 20, 2018 including a

**Freshwater Wetlands Individual Permit, a Flood Hazard Area Permit, an In-Water and Upland Waterfront Development Permit and a Coastal Wetland Permit.**

- June 23, 2017 - Transcontinental Gas Pipeline Company, LLC (Transco) submitted an application to the Division of Land Use Regulation (the Division) for a Flood Hazard Area Permit and a Freshwater Wetland Individual Permit for the Compressor Station and Madison Loop portions of the NESE project.
- July 10, 2017 - Transco submitted an application for a Coastal Wetland Permit and an In-Water and Upland Waterfront Development Permits for a portion of the Madison Loop and the Raritan Loop portions of the NESE project.
- June 15, 2018 - All of these applications were withdrawn due to technical deficiencies.
- June 20, 2018 - Transco resubmitted all of these applications to the Division.

Based upon the Division's review to date of the June 20 permit application submittal, the current application remains deficient. The Division will be issuing Transco a formal letter that outlines these deficiencies. These deficiencies are noted as follows:

1. The submitted project plans and tax maps for the Madison Loops shows construction, temporary access roads, staging areas, easement expansion, and new pipe line alignment outside of Transco's existing right-of-way on at least seven (7) properties not owned by Transco. Written property owner consent for the affected properties is required.
2. Transco has a pending application with the Federal Energy Regulatory Commission (FERC) for a Certificate of Public Convenience and Necessity (Certificate). FERC's decision establishes public interest and need for the project under the Natural Gas Act. Because the applicant has not obtained the FERC Certificate, it has not been demonstrated that there is a need for the project, nor has Transco shown that the project would meet the public interest under the federally authorized Freshwater Wetlands and Water Quality Certificate Standards. A copy of the FERC Certificate is required.
3. Transco has not demonstrated that the proposed methods to install the Raritan Loop demonstrate compliance with the New Dredging rules under N.J.A.C. 7:7-12.7(c)5 and 12.7(c)6. In particular, Transco proposes to install the new pipeline from mile marker 12+50 to 14+05 in the Raritan Bay via the use of clam shell bucket. This will result in dredging a 60-foot wide path for 8000 linear feet, and the generation of approximately 69,000 cubic yards of dredged material. Transco proposes both Horizontal Directional Drilling (HDD) and the use of a jet trencher to install other portions of the pipeline and has not provided a rationale that demonstrates that these methods cannot be used between mile markers 12+50 and 14+05 within the Raritan Bay. Additional information is required to demonstrate that the expanded use of HDD and jet trenching would be unfeasible.
4. Transco performed sediment testing and analysis of the proposed dredge material. However, that testing and analysis was not a Division approved Sediment Sampling and Analysis Plan as required by Appendix G of the Coastal Zone Management Rules. Without an approved Sampling and Analysis Plan, the Division is unable to

evaluate the proposed dredge material for appropriate upland disposal. A proposed Sampling and Analysis plan is required.

5. Transco proposes to take dredged material to the Historic Area Remediation Site (HARS) and all dredged materials not accepted by the HARS to an alternate upland placement site. However, Transco has not received an approval from the Army Core of Engineers to place the dredged material at the HARS site, and Transco has not provided a letter of acceptance from any other acceptable dredge placement site for the dredged material. Documentation from a suitable disposal facility is required for disposal of the dredged material.
6. Pursuant to N.J.A.C. 7:13-12.1(g)2, concentrated overland flow that causes erosion to property not owned by an applicant is considered an adverse impact to that property. Transco is proposing to construct two (2) swales adjacent to the proposed Compressor Station access road. These swales would receive runoff from the access road, concentrate that flow, and then ultimately discharge the runoff onto the adjacent property not owned by applicant. This discharge has the potential to cause erosion on property not owned by the applicant. Transco must demonstrate that this runoff will not result in erosion or adverse impact to the offsite property. Additionally, Transco must submit information that demonstrates that it has consent to discharge the stormwater onto the adjacent property, or that it has obtained an easement or entered into an agreement to purchase the property pursuant to N.J.A.C. 7:13-12.1(f).
7. Transco has proposed a bioretention pond in the proposed Compressor Station site design. The submitted information does not identify the elevation of the seasonal high groundwater table as required by the Stormwater Management Rule and *New Jersey Stormwater Best Management Practices Manual*. Without the elevation of the seasonal high groundwater table DEP cannot determine whether the bioretention basin is designed such that the minimum required 2-foot separation from the bottom of the bioretention's soil media to the seasonal high groundwater table has been attained as required by the Stormwater Management Rule and the *New Jersey Stormwater Best Management Practices Manual*. Soil boring data that identifies the seasonal high groundwater elevation is required.
8. Transco must analyze the pervious and impervious surfaces separately to accurately compute the stormwater runoff rates and volumes of the existing and proposed site conditions. The submitted calculations cannot be relied upon to demonstrate compliance with the water quality standards set forth at N.J.A.C. 7:8-5.5, and the water quantity and recharge standards set forth at N.J.A.C. 7:8-5.4 because the analysis was not done in this manner. Revise calculations are required that analyze the pervious and impervious surfaces separately.
9. The stormwater runoff from the proposed compressor station and access road is conveyed to two distinct analysis points, the freshwater wetlands complex near Georgetown-Franklin Turnpike and the Tributary to Carters Brook. Therefore, Transco must demonstrate compliance with the water quantity standards for each distinct analysis point.

10. Transco has designed the proposed access road, such that stormwater runoff from approximately 72,000 square feet of pavement will bypass the proposed bioretention facility and not receive any water quality treatment. Transco intends to compensate for said bypass by capturing and treating runoff from the compressor station area. However, most of the compressor station area does not receive vehicular traffic (i.e. buildings, gravel area beneath the proposed compressor station equipment) and thus is considered clean. Therefore, capturing and treating runoff from these areas cannot be used to compensate for not treating runoff from the proposed access road. Additionally, the project must be designed to provide 80 percent TSS removal rate for two distinct analysis points, the freshwater wetlands complex near Georgetown-Franklin Turnpike and the Tributary to Carters Brook. Therefore, a revised Stormwater management design is required that treats the 72,000 square feet of access road.
11. Transco has assumed the proposed bioretention facility will receive 90% TSS removal credit. However, to receive said credit, the proposed bioretention facility must be designed to have at least two feet of soil bed media and the basin must be planted as a terrestrial forested community (average of 1,000 stems per acre). As currently proposed, the basin does not satisfy this design criteria.

If you have any additional comment, please contact Christopher Jones, Manager, Bureau of Urban Growth & Redevelopment at (609) 984-6216 or Christina Albizati of the Division of Land Use Regulation at (609) 633-6757.

### **Natural and Historic Resources**

#### **Fish and Wildlife - Endangered & Non-game Species Program**

In addition to comments provided on the Draft EIS on May 14, 2018, the Endangered and Non-game Species Program (ENSP) offers the following additional comment on the Draft EIS and Supplemental Reports.

1. Pg. 4-48: "Construction could result in the mortality of less mobile animals such as small rodents, reptiles, amphibians, and invertebrates, which may be unable to escape the immediate construction area, but wildlife mortality is not anticipated to be significant"
  - ENSP personnel need to know what the basis is for determining the significance/insignificance of the loss of an individual to a local population in order to complete this review.
2. At this time, ENSP concurs with revisions/clarifications regarding the following items:
  - a. The vegetation clearing timing restriction to be implemented during project site preparation, construction, and restoration to minimize harm to migratory songbirds; i.e., avoid clearing vegetation April 1 through August 31, (pg. 4-72).

- b. The vegetation clearing timing restriction to be implemented during work at Compressor Station 206 to minimize harm to Indiana Bats; i.e., clearing trees  $\geq 5$  inch DBH from Oct 1 to March 31.
    - However, please note, there is suitable forest habitat for Northern Long-eared Bats along the project length including the entire onshore length and specifically, the westernmost segment west of Rte. 9. Although Transco is not required under the federal listing (per the 4(d) rule), ENSP requests Transco voluntarily extend the tree clearing restriction to the entire onshore project length to minimize the risk of harm to these bats as well.
  - c. Vehicle speed limits to minimize impacts from vehicle and equipment traffic of no more than 15mph (pg. 4-287) and proposed speeds (10 knots) for aquatic vessels 65-ft or larger from November 1 to April 30 to protect Right whales.
  - d. Proposal to conduct construction activities during daylight hours to the extent practicable.
3. At this time, ENSP concerns regarding marine wildlife:
- a. Although the ENSP generally defers to the National Marine Fisheries Service on mitigation actions relating to marine mammals and sea turtles, we feel strongly that, despite efforts to minimize impacts from sea floor disturbance, proposed actions will pose a threat to surrounding marine wildlife, including sea turtles. Sea turtles are dependent upon vision to locate prey, making individuals especially vulnerable to effects of turbidity/suspended sediments associated with pipeline construction. Disturbance from construction activities, and mortality to benthic prey items from excavations and smothering, may force sea turtles away from preferred foraging areas, possibly putting them at increased risk to ship strikes. Finally, with increases in turbidity, it is possible that shipboard observers may not be able to readily spot sea turtles and marine mammals that have wandered into construction areas, putting them at increased risk from ship strikes and other project impacts. We strongly encourage that construction activities be kept to a minimum from June through October.
  - b. We concur with the Bureau of Marine Fisheries (BMF) that dredging and developing timing restrictions designed to protect anadromous fish migrations (e.g. endangered populations of Atlantic and shortnose sturgeon) MUST be observed (i.e. no work/dredging between March 1-June 30). Sturgeon are susceptible to boat strikes, increased turbidity, and sensory disturbances, esp. from pile driving. Although sturgeon are likely to move away from areas before pile driving exceeds behavior disturbance thresholds, it is possible that they could be attracted to construction areas due to the presence of prey items that have been stirred up during construction. It is therefore critical that these activities be completely avoided during migration periods and not just to the extent practicable.
  - c. ENSP defers to the National Marine Fisheries Service (NMFS) and US Fish and Wildlife Service (USFWS) on best management practices (BMP's)/mitigation actions relating to marine mammals and sea turtles, and await results of ongoing consultations. We concur with the applicant that speed restrictions should be imposed to protect right whales between 1 Nov and 30 April, and that vessels should

stay at least 150 feet from sea turtles. We highly recommend, however, that project activities in areas proximate to seal haul out sites/foraging areas do not take place during months when seals are known to occur (November-April). A portion of the proposed pipeline construction lies within the ENSP's Species Occurrence Area (SOA) for harbor seal. It is critical that overwintering seals are able to travel to foraging areas and back to their haul out sites without disturbance.

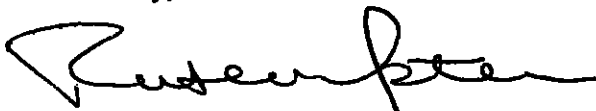
- d. As noted, ENSP defers to the National Marine Fisheries Service and the US Fish and Wildlife Service (USFWS) on actions relating to marine mammals and sea turtles.
4. The proposed Transco NESE Pipeline extends through the Raritan Bay, an area that has been documented for horseshoe crab spawning (critical to migrating shorebirds) as well as migratory shorebird presence during spring and fall migrations. As such, the proposed trenching activity to install the pipeline can have detrimental impacts on these species if conducted during these critical periods.

To minimize harm, ENSP recommends that no activity occur near-shore (i.e., the beach) or off-shore between April 15 and September 15, the same restriction implemented for dredging activities by the DFW, Bureau of Marine Fisheries. In addition, the topography and sand composition of the shoreline should not be altered long-term. Therefore, ENSP recommends mitigation measures be implemented to restore (and/or improve) the shoreline for horseshoe crab spawning/egg-laying and shorebird access. Guidance parameters for shoreline restoration and improvement can be provided by ENSP biologist, Amanda Dey at [Amanda.Dey@dep.nj.gov](mailto:Amanda.Dey@dep.nj.gov) and/or 856-785-2711).

If there are any questions please contact Kelly Davis of the DFW Office of Environmental Review at (908) 236-2118 or [kelly.davis@dep.nj.gov](mailto:kelly.davis@dep.nj.gov).

Thank you for the opportunity to review and provide comment on the May 11, 2018 posted Supplemental Information Reports. If you have any additional questions, please do not hesitate to call me at (609) 292-3600.

Sincerely,



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Ruth W. Foster, PhD, P.G, Acting Director  
Office of Permit Coordination and Environmental Review

cc.  
Eric Wachter, Chief of Staff  
Richard Dalton, NIGS  
Christopher Jones, NJDEP Land Use  
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Kelly Davis, NJDEP DFW  
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Document Content(s)

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