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VIA EMAIL AND U.S. MAIL

Randy Bearce  
Bureau Chief  
Bureau of Tidelands Management  
Division of Land Use Regulation  
Department of Environmental Protection  
Mail Code 501-02B  
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**Re: Objection to Transco's Tidelands Utility License Application for the Proposed  
Northeast Supply Enhancement Project (Program Interest #: 1200-17-0006.1;  
Activity #: TDI 190001)**

This letter is to request an opportunity to be heard by the New Jersey Department of Environmental Protection's ("DEP's") Bureau of Tidelands Management with regard to the above-referenced Tidelands Utility License ("Tidelands") application for the proposed Northeast Supply Enhancement ("NESE") Project. Essentially, Transco seeks the State's permission to use the State-owned tidelands property for its proposed NESE Project. On behalf of our clients (NY/NJ Baykeeper, Food & Water Watch – New Jersey, Central Jersey Safe Energy Coalition, and the Princeton Manor Homeowners Association), we object to Transco's Tidelands application for the reasons set forth below and in the attached documents. Our four clients' objection demonstrates a significant degree of public opposition to Transco's Tidelands application. Food & Water Watch – New Jersey has 80,000 supporters; NY/NJ Baykeeper has 15,000 supporters; Central Jersey Safe Energy Coalition has 2,500 supporters; and the Princeton Manor Homeowners Association has 700 members. Thus, EELC is objecting on behalf of nearly 100,000 total people. There are many more members of the public, not represented by EELC, who object to the proposed NESE project, as evidenced by the many municipal and county resolutions adopted and submitted to DEP's Land Use Regulation Program with regard to Transco's land use permit applications.

New Jersey's Tidelands Resource Council's ("TRC's") decisions on whether to approve grants, leases, or licenses for the use of New Jersey's tidelands – which are property of the State – are guided by the standards set out under N.J.S.A. 12:3—1 Et seq. The TRC and its predecessors, "for over a century, ha[ve] been responsible for the administration of the State's tideland interests. During this long history the Legislature has not provided any detailed statutory guidance."<sup>1</sup> The TRC "may not, of course, exercise unfettered discretion in tideland

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<sup>1</sup> *Atl. City Elec. Co. v. Bardin*, 145 N.J. Super. 438, 444–45 (App. Div. 1976).

transactions.”<sup>2</sup> In practice, the TRC’s de facto standard for approving tidelands applications has been that “[t]he State must find that any sale or rental is in the public interest, and then [the State must] make a determination as to the cost.”<sup>3</sup> The TRC’s initial decision must then be approved by the Commissioner of DEP and the Attorney General.<sup>4</sup>

Transco’s Tidelands application consists primarily of the official Tidelands License Application Form, Organization Data Form, a Written Description of the Project, and Transco’s Waterfront Development Permit application (Program Interest #: 0000-01-1001.3; Activity #: LUP 190002). Based on our clients’ water experts’ previous review of Transco’s Waterfront Development Permit application, we object to Transco’s Tidelands application on the basis that it is not “in the public interest.” As we have detailed in comments (dated August 2, 2019; August 23, 2019; and October 21, 2019) to DEP’s Land Use Division on Transco’s Waterfront Development Permit application, “[t]he regulated offshore activities proposed by Transco will...have an overall negative impact to designated uses and aquatic life and are...in violation of not only N.J.A.C. 7:9B, but also N.J.A.C. 7:7-9.36 and 7:7-9.37.”<sup>5</sup> For your reference, we attach here these comments as well as the associated expert reports by Princeton Hydro. We also attach here comments submitted by the Natural Resources Defense Council (“NRDC”) to the New York State Department of Environmental Conservation (“DEC”) on the NESE Project, which are referenced in the August 23, 2019 Princeton Hydro Report.

We trust that you will seriously consider the many objections placed into the record of DEP’s decision with regard to the associated Waterfront Development Permit. In addition, we respectfully request that the TRC provide EELC a meaningful opportunity to be heard with regard to our objections to Transco’s application.

Respectfully submitted,



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Eastern Environmental Law Center

Enclosures:

- EELC August 2, and 23, 2019, and October 21, 2019, Comments
- Princeton Hydro August 23, 2019, and October 20, 2019, Report
- NRDC July 13, 2019 Comments to New York DEC

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<sup>2</sup> *Id.* at 445.

<sup>3</sup> DEP’s Bureau of Tidelands Management, “Frequently Asked Questions and Answers” (June 1998), *available at* <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=2ahUKEwi7vp7007XlAhVuc98KHZZqAVIQFjADegQIAxAI&url=https%3A%2F%2Frucore.libraries.rutgers.edu%2Frutgers-lib%2F18002%2Fpdf%2F1%2F&usg=AOvVaw3iACzU87Z0p-CrcYS1qO5Z>.

<sup>4</sup> N.J.S.A. 13:1B-13.

<sup>5</sup> EELC Comments to DEP (October 21, 2019), pg. 1.