

**Reasons for the New Jersey Department of Environmental Protection (NJDEP) to
Deny Permits for the Northeast Supply Enhancement (NESE) Project**

APPLICATIONS FOR NESE DO NOT ADHERE TO REGULATIONS' REQUIREMENTS TO AVOID EXCEPTIONAL RESOURCE VALUE WETLANDS & TRANSITION AREAS

- 1. Williams/Transco did not demonstrate that there are no practicable alternatives to avoid impacting exceptional resource value wetlands and their transition areas at the proposed Compressor Station 206 (CS206) site and Madison Loop.**
- 2. Impacts to the habitat for the State threatened barred owl as well as protected vernal pool habitats at the proposed Compressor Station 206 site were not adequately assessed or avoided.**
- 3. Williams/Transco made no effort to complete field studies of areas surrounding the proposed CS206 site.**

For the NESE Project, FERC did not have information about the designation of wetlands and transition areas as exceptional resource value following the Endangered and Nongame Species Program's April 30, 2019 affirmation that there is suitable habitat for the threatened barred owl on the proposed Compressor Station 206 site which includes the access road and tie-in suction/discharge pipeline, and FERC did not have accurate information about the extent of the vernal pools in the areas of the proposed access road, pipeline for suction/discharge and tie-in, and also at the existing access road to the EPA groundwater treatment building, which was detailed in information sent by Eastern Environmental Law Center to the DEP on May 2, 2019 (with the April 30, 2019 report from Wander Ecological Consultants attached) and August 2, 2019 (with the July 25, 2019 report from Wander Ecological Consultants enclosed).

NJDEP needs to give careful consideration to the reports by Wander Ecological Consultants:

- 4/30/19 – *Endangered and Threatened Species and Vernal Habitats Affecting the Northeast Supply Enhancement Project in Franklin Township, Somerset County, and Sayreville Borough, Middlesex County*
- 7/25/19 - *Potential Impacts to Barred-Owl and Vernal Pool Species*
- September 2019 submission with clear documentation of vernal pools that impact the compressor station facility site

Barred Owls:

1. The suitability of the compressor station site for the barred owl led to reclassification of the onsite wetlands to "exceptional resource value," which required a 150-foot transition area.
2. Williams/Transco acknowledged that the compressor station sight might have foraging habitat for the barred owl but, since they and NJDEP only identified one tree on the compressor station lot as a potential nesting site, they did not consider the immediate compressor station site as suitable for barred owl nesting.
3. Since barred owls sometimes feed on salamanders and frogs, the presence of vernal pools – not yet fully considered by Williams/Transco in their applications – should be viewed as an especially important habitat component for local barred owls.
4. Without actually completing field surveys that could have been done by requesting permission of access to private properties surrounding the compressor station site, Williams/Transco wrongly claims that the Project's impacts to "exceptional resource value" wetlands are essentially *de minimis* by assuming – without providing any supporting data – that all 381 acres of identified forested wetlands within the contiguous area surrounding the site provide suitable barred owl habitat.

In the 9/9/19 responses to comments sent by Williams/Transco to the DEP, they now note that there are 800 acres of potentially suitable barred owl habitat around the compressor station site and that the patches should be contiguous since barred owls live in larger forest patches. Using the fact that there are cleared areas on the compressor station site, open fields to the south and adjacent eastern end of the access road, and clearing for the existing ROWs to the east and north of the site does not address the plans to remove trees from areas that are exceptional resource value wetlands and transition areas as well as potential foraging habitat for the barred owl.

Vernal Pools:

1. Vernal pools qualify as “critical habitat for fauna and flora” under New Jersey Rules (N.J.A.C 7:7A-1,3), yet Williams/Transco’s environmental and wetlands analysis has not addressed the impacts specific to vernal pools and vernal habitats.
2. Dispersal areas surrounding the off-site vernal pools DO extend into the compressor station site.
3. New documentation of vernal pools was submitted to the NJ Division of Fish & Wildlife in late September 2019, and it is not yet known what impact this will have on the plans for the compressor station site – especially the access road and tie-in/suction & discharge pipeline. The documentation of vernal pools includes habitats used by Obligate vernal pool species Wood Frog and the Facultative species Spring Peeper – proven with pictures and recordings.
4. Since these species can disperse away from the actual breeding pools into the forest, Williams/Transco should be required to complete appropriate field studies at the appropriate time of year to map all vernal pools and associated habitat in the area for all components of the proposed compressor station facility.

**N.J.A.C. 7:7A
FRESHWATER WETLANDS PROTECTION ACT RULES**

**Date last amended:
July 15, 2019**

7:7A-10.2 Standard requirements for all individual permits

(b) The Department shall issue an individual freshwater wetlands or open water fill permit only if the regulated activity:

2. Will result in the minimum feasible alteration or impairment of the aquatic ecosystem including existing contour, vegetation, fish and wildlife resources, and aquatic circulation of the freshwater wetland and hydrologic patterns of the HUC 11 in which the activity is located;

At the Compressor Station 206 site, Williams/Transco claims that the newly identified barred owl habitat is a “circumstance peculiar to the subject property”; that their existing pipelines are in exceptional resource value wetlands; and that construction of a road and tie-in facilities cannot happen without impacting these wetlands. (pages 8 & 9 of Attachment B from 9/4/19 submission to the DEP from Williams/Transco)

At the Compressor Station 206 site, Williams/Transco claims that the newly identified barred owl habitat is a “circumstance peculiar to the subject property”; that their existing pipelines are in exceptional resource value wetlands; and that construction of a road and tie-in facilities cannot happen without impacting these wetlands. (pages 8 & 9 of Attachment B from 9/4/19 submission to the DEP from Williams/Transco)

- This rationale does not address the requirement for Williams/Transco to consider all alternatives in their proposed plans. As has been noted in other submissions to the DEP, there were adjoining lots, already under consideration, which could have been chosen as a site for the compressor station facility, but Williams/Transco chose the lot that they purchased instead. The adjoining lots would have had less impact on wetlands than the chosen site.