



January 19, 2018

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington D.C. 20426

RE: *DTE Midstream Appalachia, LLC, Docket No. CP17-409-000*
DTE Midstream Appalachia's Response to FERC Staff Environmental Data
Request dated January 8, 2018

Dear Ms. Bose,

Based on comments submitted by the Delaware Riverkeeper Network (DRN) on the Environmental Assessment (EA) prepared by Federal Energy Regulatory Commission (FERC) staff for the Birdsboro Pipeline Project (BPP) proposed by DTE Midstream Appalachia, LLC (DTE) in Docket No. CP17-409, FERC requested that DTE update, as appropriate, its cumulative impact assessment to include the infrastructure improvement projects that are proposed or planned to support the Birdsboro Power Facility, including the Reading Area Water Authority's proposed water line, the 230 kilovolt (kV) transmission line, and the 230 kV substation.

On January 15, 2018, DTE submitted a revised Resource Report section 1.9 with an updated cumulative impact assessment intended to that address the infrastructure improvement projects, proposed or planned to support the Birdsboro Power Facility, that were identified in FERC's January 8, 2018 request. DRN submits the following comments on DTE's revised Resource Report section 1.9 with an updated cumulative impact assessment.

DRN appreciates FERC's effort to ensure cumulative impacts are considered by requesting DTE update its cumulative impact assessment based on DRN's comments. However, FERC has not gone far enough in its request of DTE. DRN had identified the infrastructure improvement projects that are proposed or planned to support the Birdsboro Power Facility as being past, present, and potential projects that merit consideration in the cumulative impact assessment. Beyond our identification of these projects and their inclusion in the Cumulative impact assessment, DRN asks FERC to direct DTE to re-evaluate the BPP vicinity to identify other past, present, and potential projects that merit inclusion in the cumulative impact assessment.

DRN is aware of at least two other past, present, and potential projects in the vicinity of the proposed BPP corridor that were also omitted from this analysis. These projects may also: impact resources potentially affected by BPP; cause impact with the BPP area; cause impact within BPP's resource-specific geographic boundary; and cause these impacts with the time span for potential BPP impacts.

- In the Borough of Birdsboro, the Liberty Bell Auto Museum has received approval from Borough Council to construct an exotic car museum on property previously owned by both the VFW and

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawareriverkeeper.org
www.delawareriverkeeper.org

Birdsboro Power.¹ The proposed Liberty Bell Auto Museum will include a 25,000-square-foot one-story building, housing 50 automobiles, to be built on 2.3 acres.² The address for the site has been given as both 321 E. Main Street, Birdsboro, and 325 E. Main Street, Birdsboro.³ In addition to 24 on-site parking spaces, the proposed museum will lease additional parking from its neighbors.

- In Amity Township, the Board of Supervisors has granted conditional approval for the development of a turkey farm business off Route 562. The address for the proposed turkey farm is 6359 Boyertown Pike, Douglassville. This location appears to potentially be within .25 mile of the BPP facilities. This project includes two 700-foot-by-63-foot, wood-frame, metal roof and siding, dirt floor turkey houses to accommodate 37,840 birds; a 40-foot-by-15-foot-by 6-foot-high composter; and concrete apron to hold 900 tons of manure.⁴

FERC's EA stated that "To date, no planned commercial, residential, or other developments have been identified within 0.25 mile of the Project facilities."⁵ DRN is concerned that DTE continues to omit other past, present, and potential projects that should be included in the cumulative impact assessment.

DRN has reviewed the revised Table 1.9.2 *Past, Present, and Reasonably Foreseeable Projects Identified within the Region of Influence* included in Resource Report section 1.9. First, DRN disagrees with DTE's assertion that the Birdsboro Power Energy Generating Facility will have "minimal impact due to the site being an abandoned commercial site which has been previously disturbed."⁶

DRN again requests that FERC consider the soils impacts associated with the construction of the Birdsboro Power Facility, which is located in the floodplain and floodway, as part of the BPP's cumulative impact analysis. The final grade is intended to be at least one foot above the regulatory flood elevation. This can only be accomplished by bringing in significant volumes of fill into the floodplain. FERC should recognize not only the volume of fill being brought to the site to raise the land surface by four feet. FERC should also consider the removal of fill if it is occurring within the vicinity of the BPP as well as the impact to the landscape from which that fill is extracted.

In addition, DRN notes that in Table 1.9.2 under the Current Status and Schedule column, the date for work to begin for Birdsboro Power Facility is estimated as 2017. This is misleading. Site work and an environmental cleanup are underway at the site. However, not all permits for the Birdsboro Power Facility have been approved. The table should be revised to correct this. For example, Birdsboro Power and 230kV Bus Station and Transmission Line Application No E06-716 (Water Obstructions and Encroachments) includes work on stormwater outfalls and piping to be constructed on the Birdsboro Power Facility site. On October 27, 2017, the Pennsylvania Department of Environmental Protection (PADEP) sent a letter to Birdsboro Power identifying technical deficiencies and requesting a "response fully addressing each of the significant technical deficiencies."⁷ The information was to be received on or before December 26, 2017. It is DRNs' understanding that this permit has not yet been issued.

¹ Borough of Birdsboro. (18 September 2017). Minutes of the Birdsboro Borough Council Meeting.

² O'Laughlin, L. (23 May 2017). "Birdsboro zoners OK plan for exotic car museum." Reading Eagle; DeLucas, S.F. (30 August 2017) "Birdsboro planners recommend approval for auto museum plan." Reading Eagle.

³ O'Laughlin, L. (23 May 2017). "Birdsboro zoners OK plan for exotic car museum." Reading Eagle; DeLucas, S.F. (30 August 2017) "Birdsboro planners recommend approval for auto museum plan." Reading Eagle.

⁴ Larive, D. (17 March 2017). "Amity approves turkey farm off Route 562." Mercury News

⁵ Federal Energy Regulatory Commission. (November 2017). Birdsboro Pipeline Project: Environmental Assessment (Docket No. CP17-409-000).

⁶ DRN also objects to the use of "abandoned" to describe the Birdsboro Power Facility site. This site was not without an owner prior to Birdsboro Power's acquisition of the site. Contamination issues remain on the site, but the U.S. Army undertook a partial cleanup from 2006 through 2008. In addition, redevelopment plans have been prepared for the site to market the site to prospective buyers See Armorcast, <http://www.co.berks.pa.us/Dept/BerksRA/Pages/Armorcast.aspx>.

⁷ Muzic, E.J. (27 October 2017). *Re: Technical Deficiency - Birdsboro Power and 230kV Bus Station and Transmission Line Application No E06-716; APS No. ID No. 932908 Birdsboro Borough, Robeson, Union, and Exeter Townships, Berks County*. Received by James Palumbo.

Given that this still to be issued permit for the above referenced Birdsboro Power and 230kV Bus Station and Transmission Line Application No E06-716 includes the 230 kV transmission line, the suggestion under the Current Status and Schedule column for the transmission line that construction is underway is also misleading. Some hand felling of trees along the transmission route appears to have been undertaken, but PADEP has stressed to the applicant that “fills, crossings, grubbing activities would require a permit in Chapter 105 regulated areas.”⁸ Again, it is DRN’s understanding that this permit has not been issued.

DRN also notes that DTE has grouped the 230 kV transmission line and 230 kV substation together in revised Table 1.9.2 where, under the column titled “Permits / Authorizations Required and Description of Environmental Review Required (if any),” it is asserted that coordination has been pursued with the Pennsylvania Department of Conservation and Natural Resources (PADCNR) regarding the Pennsylvania Scenic Rivers Act. DRN has learned that coordination with the PADCNR was undertaken only regarding the transmission line. No information was provided to PADCNR regarding the substation for coordination under the Pennsylvania Scenic Rivers Act (See attachment A).

Failure to include the substation in permitting documents is a significant and consistent oversight. Information about the substation was omitted from the Delaware River Basin Commission’s (DRBC’s) docket as well as Birdsboro Power and 230kV Bus Station and Transmission Line Application No E06-716. The completed substation is described as occupying approximately five acres.⁹ However, the proposed impacts to that five acre site are not addressed in permit applications. Either wetland delineation was not undertaken for the five acre site or it was not included in Application No E06-716. In addition, the substation site was omitted from the mapping provided in the applicant’s Site Specific Plan under Application No E06-716.

Given that the substation is described as occupying five acres, coupled with the omission of any documentation on the substation site, it is unclear if the listed proposed acreage to be impacted by the transmission line includes the acreage to be impacted by the substation. DTE should be required to further revise Table 1.9.2 to break out the substation impact and footprint as a separate row in this table, or at least to distinguish its footprint from the transmission line to ensure the total acreage is considered in the cumulative impact analysis.

The site of the proposed substation, in Robeson Township, is located in both the flood fringe and the flood way. Flooding has been documented as occurring at the site under current land use conditions even without a significant rain event.

The areas within the Robeson Township adjacent to the Schuylkill River are particularly low lying areas and are subject to minor flooding even after moderate rain or thaw conditions.¹⁰

Birdsboro Power has been aware of need for floodplain filling at the proposed substation site since at least December 2016 (emphasis added):

Initial surveys indicate portions of the AA2-115 interconnection substation site are in the 100-year flood plain of the Schuylkill River. Due to geology/topography and environmental impacts of the proposed substation site, the Developer must work through Transmission Owner on design details relative to the civil site development design requirements for raised elevation of the substation site and access road and associated environmental mitigation requirements.¹¹

Robeson Township’s Floodplain Management ordinance requires:

⁸ McDonald, A. (9 August 2017). *Record of Conversation*. Dam Safety, Waterways & Wetlands Section, Waterways & Wetlands Program, Southcentral Regional Office, Department of Environmental Protection

⁹ DeLucas, S.F. (18 January 2017). “Robeson Township supervisors get plan for power substation.” Reading Eagle.

¹⁰ Dawood Engineering, Inc. (December 2016). Hydrologic and Hydraulic Report for Birdsboro Power, LLC Electric Transmission Line

¹¹ PJM Interconnection. (December 2016). Generation Interconnection Facility Study Report For PJM Generation Interconnection Request Queue Position AA2-115 S. Reading-Boyetown 230 kV

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.¹²

Filling the floodplain to comply with this requirement appears to be planned in order to secure Robeson Township zoning approval:

[T]he current [substation] design is, or can readily be made, generally consistent with the Robeson Township Floodplain Management and Stormwater Management Ordinances.¹³

DRN notes that DTE does not indicate needs for Chapter 106 permits (floodplain management) from PADEP for the Birdsboro power Facility, the 230 kV transmission line, or the 230 kV substation. Birdsboro Power proposes to deliver energy into the PJM interconnection in the northeastern U.S. In the Pennsylvania Code, a “public utility service” is defined as:

The rendering of the following services for the public:

- (i) Gas, electricity, or steam production, generation, transmission or distribution.¹⁴

A public utility is defined as “A person engaged in rendering a public utility service.”¹⁵ A person is defined as “An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or other legal entity which is recognized by law as the subject of rights, and duties.”¹⁶

Clearly, Birdsboro Power LLC is a public utility under the definitions of Chapter 106 and therefore obligated to meet permitting requirements under this chapter:

- (a) No person may construct, modify, remove, destroy or abandon a highway obstruction or an obstruction in a floodplain without first applying for and obtaining a written permit from the Department.¹⁷

Yet, Birdsboro Power LLC has begun undertaking site work in the floodplain without undertaking the studies required under Chapter 106:

- (4) A hydrologic and hydraulic report which shall include:
 - (i) Data on size, shape and characteristics of the watershed.
 - (ii) The 100-year flood elevation.
 - (iii) An hydraulic analysis to show the effect of the highway obstruction or obstruction on the floodplain including a backwater analysis and an assessment of flood damage.¹⁸

Furthermore, as Chapter 106 defines transmission and distribution of electricity as public utility services, the requirements for permitting under Chapter 106 also apply to the proposed 230 kV transmission line and substation. The transmission line will be comprised of approximately 29 steel monopoles that will be 110-foot to 140-foot tall. The 40-inch to 60-inch diameter monopoles will be placed on concrete pile foundations. DRN notes that monopole construction usually requires deeper foundations with greater mass than lattice structures.

¹² Township of Robeson. Municipal Ordinance, CHAPTER 8: FLOODPLAIN. § 503. Design and Construction Standards.

¹³ Kraft, G.D. (4 Feb 2017). *Re: Birdsboro Power, LLC, KE File - A278c*. Received by Toby R. Stutzman, Dawood Engineering, Inc.

¹⁴ Title 25 Pa. Code § 106.1. Definitions.

¹⁵ Title 25 Pa. Code § 106.1. Definitions.

¹⁶ Title 25 Pa. Code § 106.1. Definitions.

¹⁷ Title 25 Pa. Code § 106.11. Permit requirements.

¹⁸ Title 25 Pa. Code § 106.12(d)(4). Permit applications—information and fees.

This means the smaller visual footprint may actually require more extensive excavation and concrete work, and therefore result in a greater area of disturbance.¹⁹

Robeson Township will require Chapter 106 permitting from this public utility for permitting:

The Municipality shall require receipt of a complete plan, as specified in this Ordinance.

For any activities that require an NPDES Permit for Stormwater Discharges from Construction Activities, a PaDEP Joint Permit Application, a PennDOT Highway Occupancy Permit, or any other permit under applicable state or federal regulations or are regulated under Chapter 105 (Dam Safety and Waterway Management) or Chapter 106 (Floodplain Management) of PaDEP's Rules and Regulations, the proof of application for said permit(s) or approvals shall be part of the plan.²⁰

DRN notes that under for the Birdsboro Power Supply Water Line, the column titled “Permits / Authorizations Required and Description of Environmental Review Required (if any)” appears to omit a Chapter 106 floodplain management permit. Under the Current Status and Schedule for the Birdsboro Power Supply Water Line, the estimated date for work to begin lists second quarter 2018. Again, it is DRNs’ understanding that this permit has not yet been issued. For all projects to be included in the cumulative impact assessment, FERC should require DTE to provide a table like that in Appendix 1-E: Table 1.8-1 - Birdsboro Facility Federal, State, and Local Permits / Approvals found in Resource Report 1.0 General Project Description. This table lists: Permit / Authorization Agency; Issuance Date; and (anticipated) Status.

FERC should also request that, throughout Table 1.9.2, DTE should update dates now listed as 2017 for projects where construction has not yet begun. DRN also notes the completion date for the River Run Meadows Apartments is listed as Spring 2008. This should be corrected.

In Section 1.9.2.1 Groundwater, Wetlands, Vegetation, and Wildlife, DTE asserts that it does not anticipate significant cumulative impacts to wetlands and waterbodies, in part, because PADEP and the U.S. Army Corps of Engineers (USACE) are reviewing stream and wetland impacts associated with the transmission line and substation and because PADEP and the Berks County Conservation District (BCCD) are reviewing wetland impacts associated with the Birdsboro Power Supply Water Line. DRN notes that cumulative impacts are not covered simply through multiple permit applications. First of all, the regulatory agencies are required to decide narrowly on only the permit they are considering in isolation of any other activity when making a ruling or issuing a permit. Second, some regulations require “cumulative impacts” be evaluated, but neither of the permits referenced include such cumulative impact evaluations. Without a requirement, the regulatory agencies would be going outside their regulatory purview and could be subject to legal challenge were they to explicitly consider cumulative impacts. Any suggestion that separate and independent permit reviews will address broader impacts simply ignores the role and regulatory authority of those permit reviews.

DRN also notes that DTE’s description of land use in the vicinity of the Birdsboro Power Facility and the 230 kV transmission line and substation gives an incomplete and inaccurate picture of surrounding land use. No mention is made of the forests and farm fields adjacent to these projects. DRN has included aerial image from Google maps to correct DTE’s description (See Attachment B).

Section 1.9.22 Surface Water in the revised Resource Report section 1.9 includes description of impact to groundwater which would seem to more appropriately be included in Section 1.9.2.1 Groundwater, Wetlands, Vegetation, and Wildlife. DTE notes that the Birdsboro Power Facility overlaps the BPP project site. However,

¹⁹ Molburg, J.C., et al. (2008). The design, construction, and operation of long-distance high-voltage electricity transmission technologies (No. ANL/EVS/TM/08-4). Argonne National Laboratory (ANL).

²⁰ Township of Robeson. Municipal Ordinance, CHAPTER 20-A: STORMWATER MANAGEMENT. § 404. Plan Submission.

DTE does not provide detail as to the extent of overlap. FERC should request DTE provide mapping that details the extent of overlapping activities on the Birdsboro Power Facility site.

As noted in our comment on the EA, DTE is proposing to remove all soils from the pipeline right-of-way on the site to ensure that future maintenance activities can occur without having to monitor and manage contaminated soils,²¹ which is an adequate response to dealing with contaminated soils in the path of the pipeline. The potential for movement of contaminants from adjacent soils into the clean replacement fill remains. The soils analysis of the pipeline path characterized only the level of contamination in soils in the right-of-way, ignoring nearby soils.²² DRN again asks that FERC require DTE to submit a copy of the 2016 Phase II Environmental Report commissioned by Birdsboro Power LLC or require DTE to more fully characterize the level of contamination beyond the pipeline corridor and to assess the potential for contaminants to move into the clean fill. Without complete information about full extent of contamination on site, FERC's environmental review of the BPP is incomplete and not in compliance with the National Environmental Policy Act (NEPA).

In light of the recent discovery of buried canisters of chlorine gas on site of the Birdsboro Power Facility, which resulted in the hospitalization of one individual, DRN also request FERC require DTE to use ground penetrating radar to limit the potential for workers on site as well as the local community to be exposed to chlorine gas or other buried substances that might be exposed during construction.

In Section 1.9.2.6 Land and Visual Resources, DTE describes the site of the substation as "a cleared field." However, current use as a farm field does not obviate responsibility for documentation of site conditions. Again, DRN notes either wetland delineation has not been undertaken for the cleared field/230 kV substation site or such documentation simply was not included in other applications. Again, in this section, it is asserted that for the substation, coordination was undertaken with PADCNR regarding the Pennsylvania Scenic Rivers Act. This is incorrect. DRN again refers FERC to Attachment A.

In Application No E06-716, the description of the proposed transmission line contradicts DTE's assertion that transmission line will be buffered from view and not readily visible from the river (emphasis added).

The largest impact of the electric transmission line project and those like it is to the existing aesthetic of the project area. **The electric line and poles will be easily seen from a long distance and somewhat accentuated by required deforestation of the right-of-way.** Current plans propose approximately 9.4 acres of permanent floodway impact, mostly due to deforestation within the right-of-way. These impacts will not increase the flood risk in the vicinity of the project or degrade water quality. Once trees are cleared and construction is complete, small trees and shrubs will be permitted to re-establish in the ROW. Vegetative maintenance of the ROW will be conducted via mechanical means and herbicide usage is not anticipated. An influx of invasive species in the ROW presents another risk of impact to the riparian forest.²³

In Section 1.9.2.7 Air Quality and Noise, DTE states that construction associated with the Birdsboro Power Facility, 230 kV transmission line and 230 kV substation is underway. It is DRN's understanding that Water Obstructions and Encroachment permits for these projects have not yet been approved. DTE should clarify what construction is now underway and what permits have not yet been approved.

DRN also reiterates that FERC's EA for the BPP did not truly consider a "no-action" alternative. We stated previously that FERC begins its no-action analysis with a flawed assumption: "If the no-action alternative is

²¹ Dawood Engineering Inc. (June 2017). Limited Geoprobe Investigation Report HDD Pit and Pipeline: Former Armorcast Site. DTE Energy.

²² Federal Energy Regulatory Commission. (November 2017). Birdsboro Pipeline Project: Environmental Assessment (Docket No. CP17-409-000).

²³ Dawood Engineering, Inc. (3 February 2017). Environmental Assessment: PART 2 - PROJECT DESCRIPTION, Enclosure D in JOINT PERMIT APPLICATION, Birdsboro Power, LLC, Borough of Birdsboro and Robeson, Union and Exeter Township, Berks County, PA.

selected, other natural gas transmission companies could propose to construct similar facilities to meet the demand for new service at the Birdsboro Power Facility.”²⁴ First, DRN questions this demand for new service. The sole customer for the BPP is the Birdsboro Power Facility. However, Pennsylvania is already the largest exporter of electricity in the nation, so the electricity to be generated at the proposed power plant Birdsboro is not needed in Pennsylvania, yet Pennsylvanians and Pennsylvania’s environment will bear the harm from these impacts. Moreover, given that the costs of shipping electricity make it impractical to move long distances, building the power plant and constructing these appurtenant structures in Berks County, where the electricity is not needed, does not make sense.

DRN also wishes to underscore that construction of the Birdsboro Power Facility is not a given. EmberClear, the company behind the Birdsboro Power Facility, recently put on hold another such power plant, the Good Spring natural gas power plant proposed to be built in Schuylkill County. The Good Spring power plant was fully permitted, but it was still put on hold in 2017.²⁵

DRN notes that FERC asked DTE to provide:

- a) the project name, sponsor/proponent, and location (city/county);
- b) the approximate distance and direction of the project from the Birdsboro Pipeline Project;
- c) a description of the project;
- d) the footprint/layout and anticipated impacts (acres of land/resource [wetlands, vegetation, habitat, etc.] affected);
- e) a description of the permits or authorizations required for the project and a description of any environmental review required to support those permits or authorizations; and
- f) the current status and schedule of the project (e.g., proposed for October 2017, under construction, completed).

Also, include qualitative and quantitative descriptions of cumulative and/or overlapping impacts these projects and the Birdsboro Pipeline Project would have on each environmental resource.”

DRN believes that DTE has not provided the requested information and that the information that was provided includes inaccuracies that must be corrected.

In conclusion, DRN restates its belief that FERC’s finding of no significant impact is incorrect. DRN urges FERC to rescind this EA and develop a complete and comprehensive EIS. We again request that you provide a public meeting with advanced and fair notice to the public. We look forward to a response.

Respectfully submitted,



Maya K. van Rossum
the Delaware Riverkeeper

²⁴ Federal Energy Regulatory Commission. (November 2017). Birdsboro Pipeline Project: Environmental Assessment (Docket No. CP17-409-000).

²⁵ Terwilliger, V. (2 September 2017). “Good Spring power plant put on hold.” Republican Herald.

Chari Towne

From: [REDACTED]
Sent: Tuesday, January 16, 2018 1:07 PM
To: 'chari@delawariverkeeper.org'
Subject: Birdsboro Scenic River Review
Attachments: 860_849rev_Birdsboro Pipeline_Electric lines_Schuylkill_2017.pdf

Chari,
Per your request, attached is the letter we sent to the project applicant for the electric transmission and natural gas transmission lines related to the Birdsboro project. The applicant submitted 2 separate projects for review but we responded with one letter to address cumulative impacts. We were never asked to comment on the substation, or given significant information about the station that would have led us to believe that it was part of the permit application.

If you have any questions, please get in touch with me anytime.

[REDACTED]
Department of Conservation and Natural Resources
Bureau of Recreation and Conservation
400 Market St, 5th Floor | Harrisburg, PA 17101-2301
[REDACTED] | [REDACTED]
<http://www.dcnr.state.pa.us/brc> | www.ExplorePAtrails.com



Attachment B

Birdsboro Power Facility site

Borough boundary marked in red



230 kV Transmission Line path



230 kV Substation Site
(assumed)

