

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION**

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP21-94-000

**ANSWER IN OPPOSITION TO MOTION OF  
TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC FOR WAIVER OF  
18 C.F.R. § 157.23(B) FOR THE LIMITED PURPOSE OF NON-MECHANIZED  
TREE FELLING ACTIVITIES AND TO REQUEST FOR NOTICE TO PROCEED FOR  
TREE FELLING ACTIVITIES**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),<sup>1</sup> Delaware Riverkeeper Network and Maya K. van Rossum, the Delaware Riverkeeper (collectively, “DRN”), hereby answers and opposes the motion<sup>2</sup> of Transcontinental Gas Pipe Line Company, LLC (“Transco”) requesting the Commission to (1) issue by March 3, 2023, the authorization to proceed with the limited activity of non-mechanized tree felling on the route of Transco’s Regional Energy Access Expansion (“REAE” or “Project”) as proposed in its February 14, 2023 Request for Notice to Proceed,<sup>3</sup> and (2) waive 18 C.F.R. § 157.23(b) to the extent necessary to permit such authorization. DRN also opposes Transco’s Request for Notice to Proceed for Tree Felling Activities.

Transco’s requested relief is neither appropriate nor justified because:

- a. The proposed felling of trees is a long-term impact that results in irreparable environmental harm and is exactly the type of harmful construction activity that 18 C.F.R. § 157.23(b) was intended to prevent;

---

<sup>1</sup> 18 C.F.R. § 385.213.

<sup>2</sup> See Motion of Transcontinental Gas Pipe Line Company, LLC for Waiver of 18 C.F.R. § 157.23(b) for the Limited Purpose of Non-Mechanized Tree Felling Activities, Doc. Accession No. 20230214-5187, Transcontinental Gas Pipe Line Company, LLC, FERC Docket No. CP21-94-000 (Feb. 14, 2023) (hereinafter “Motion for Waiver”).

<sup>3</sup> See Request for Notice to Proceed for Tree Felling Activities, Doc. Accession No. 20230215-5036, Transcontinental Gas Pipe Line Company, LLC, FERC Docket No. CP21-94-000 (Feb. 14, 2023) (hereinafter “Request for NTP”).

- b. Rehearing requests filed in this proceeding raise substantial issues in opposition to the Project's construction, operation, and need;
- c. Transco has not established extraordinary circumstances warranting a waiver of § 157.23 in the public interest;
- d. Transco's acquisition of property interests does not eliminate the harms § 157.23(b) is meant to prevent, including harms to affected landowners; and
- e. Transco's inability to conduct tree felling within the window imposed by the Certificate Order and other federal authorizations does not preclude it from completing construction within the time provided by the Certificate Order.

For these reasons, the Commission should deny Transco's motion for waiver and deny Transco's request for notice to proceed for tree felling activities.

**I. Tree felling constitutes irreparable environmental harm and would have severe ecological consequences.**

Transco attempts to minimize the import of tree felling by describing it as "limited," "hand-felled," "non-mechanized," and generally emphasizes that the ground will not be disturbed. Despite these characterizations, tree felling is extremely ecologically disruptive, and is effectively permanent due to the long period of time that it would take for the forest ecosystem to reestablish. Even if performed by hand and without removing roots, tree felling adversely impacts water quality,<sup>4</sup> wildlife,<sup>5</sup> climate,<sup>6</sup> and the distribution of invasive plant species.<sup>7</sup> A waiver of § 157.23(b) prior to the Commission's action on rehearing would result in immediate, long-term impacts that would be unnecessarily inflicted upon the forest ecosystem, should the Commission or a court

---

<sup>4</sup> See Zerbe Declaration, Attachment A, at ¶¶ 9–12, 15, 22, 23.

<sup>5</sup> See *id.* at ¶¶ 13–14, 18–20.

<sup>6</sup> See *id.* at ¶ 21.

<sup>7</sup> See *id.* at ¶ 19.

decide that the Project was erroneously approved. Especially concerning, given this winter's unseasonable warmth, is the likelihood that the time-of-year restriction for tree felling would not actually protect the bat species it was intended to protect, and Transco's requested tree felling operations could kill these sensitive species.<sup>8</sup>

The Commission should not accept Transco's characterization of tree felling as mere "preconstruction" activity.<sup>9</sup> Tree felling is construction. The trees would not be felled but for the Commission's issuance of the Certificate and a subsequent notice to proceed. In addition, the Commission's Final Environmental Impact Statement specifically included tree felling and clearing using non-mechanical equipment within the umbrella of "construction activities" that would require authorization from FERC.<sup>10</sup> In the National Environmental Policy Act<sup>11</sup> context, federal courts have recognized that even so-called "preconstruction" activities that involve on-the-ground changes, have an adverse environmental impact, or limit the agency's choice of reasonable alternatives by creating "bureaucratic momentum," constitute irreparable injury sufficient to support an injunction pending the creation of a supplemental environmental impact statement.<sup>12</sup> Here, however, unlike in the preliminary injunction context, the burden is not DRN's, or even the Commission's, to show irreparable injury. Instead, *the burden is on Transco* to demonstrate that a waiver of § 157.23(b) is warranted.

---

<sup>8</sup> See Jackson Declaration, Attachment B, at ¶¶ 11–12.

<sup>9</sup> Motion for Waiver, *supra* n.2, at 11; Request for NTP, *supra* n.3, at 2.

<sup>10</sup> Regional Energy Access Expansion Project Final Environmental Impact Statement at 4-72 to 4-73, Doc. Accession No. 20220729-3005, Transcontinental Gas Pipe Line Company, LLC, FERC Docket CP21-94-000 (July 2022) (hereinafter, "FEIS").

<sup>11</sup> 42 U.S.C. §§ 4321–4370j.

<sup>12</sup> *Indigenous Env'tl. Network v. U.S. Dep't of State*, 369 F. Supp. 3d 1045, 1050–51 (D. Mont. 2018) (citing *Colorado Wild Inc. v. U.S. Forest Serv.*, 523 F. Supp. 2d 1213, 1221 (D. Colo. 2007)).

**II. It is Transco’s burden to show why it should be allowed to inflict irreparable environmental harm pending the Commission’s review of three requests for rehearing that each raise substantial issues concerning project need, construction, and operation.**

Transco attempts to create a novel hurdle that the Commission must clear before adhering to its own regulations: it must find “irreparable harm” before following § 157.23(b).<sup>13</sup> To the contrary, the prohibition on irreparable environmental harm pending resolution of rehearing is already baked into the rule, and no additional finding is necessary for the rule to apply. In Order No. 871 and its progeny, the Commission thoroughly explained why the prohibition on notices to proceed with construction is necessary to preserve the status quo pending resolution of rehearing requests that oppose project need, construction and operation. Transco does not dispute that three rehearing requests have been filed in this proceeding that meet this description.<sup>14</sup> Thus, the burden is upon Transco to convince the Commission that its regulation should not apply in this case, which it cannot.

Seemingly confusing the completely different standards for a motion to waive an applicable regulation with a motion to stay, Transco cites several cases in which the Commission and the courts declined to stay *already-authorized* tree felling.<sup>15</sup> These cases are simply inapposite to the situation now before the Commission, where tree felling is currently prohibited by rule, and Transco is requesting an exception to that rule.

In promulgating § 157.23, the Commission sought to “balance [its] commitment to expeditiously respond to parties’ concerns in comprehensive orders on rehearing and the serious concern posed by the possibility of construction proceeding prior to the completion of Commission

---

<sup>13</sup> See Motion for Waiver, *supra* n.2, at 4–5, 6

<sup>14</sup> See *id.* at 2, n.4.

<sup>15</sup> See *id.* at 6–7.

review”<sup>16</sup> and found it “appropriate to refrain from permitting construction to proceed until the Commission has acted upon any request for rehearing that opposes project construction and operation or raises issues regarding project need.”<sup>17</sup> Accordingly, the Commission set a clear prohibition without providing any exceptions.<sup>18</sup>

**III. Transco has not established that its desire to meet a specific construction schedule is an extraordinary circumstance warranting a waiver of § 157.23 in the public interest.**

The Commission is required, “absent an extraordinary showing by an affected person that [they are] entitled to an exemption or waiver,” to adhere to its regulations.<sup>19</sup> Waivers may only be granted in circumstances where rigid application of a general rule would not be in the public interest, and yet, in many circumstances, “strict adherence to a general rule may be justified by the gain in certainty and administrative ease, even if it appears to result in some hardship in individual cases.”<sup>20</sup> The minimal hardship experienced by Transco does not rise to an extraordinary showing that adherence to § 157.23(b) in this circumstance would be contrary to the public interest. In fact, the public interest must be protected by preventing unnecessary environmental destruction for a project that may not be completed.

Granting a waiver of the prohibition on authorization to proceed with construction would be contrary to the balance of equities already struck in the Commission’s rulemaking. If the Commission adheres to § 157.23(b), and the Certificate Order is upheld, it would still be possible for Transco to construct its project within the three-year window provided in the Certificate Order

---

<sup>16</sup> Order No. 871, Limiting Authorizations to Proceed with Construction Activities Pending Rehearing, 171 FERC ¶ 61,201 P 11 (2020).

<sup>17</sup> *Id.* at P 15.

<sup>18</sup> *See* 18 C.F.R. § 157.23.

<sup>19</sup> *Ashland Exploration, Inc. v. FERC*, 631 F.2d 817, 823 (D.C. Cir. 1980) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, (D.C. Cir. 1969)).

<sup>20</sup> *BellSouth Corp. v. FCC*, 162 F.3d 1215, 1224–25 (D.C. Cir. 1999) (quoting *Turro v. FCC*, 859 F.2d 1498, 1500 (D.C. Cir. 1988)).

even if prevented from engaging in tree felling by March 31, 2023. If the Commission waives application of § 157.23(b), however, and the Certificate Order is rescinded or vacated, then irreparable environmental harm would occur without any public benefit at all.<sup>21</sup> The Commission, in promulgating § 157.23(b), has already considered these competing interests and has reached a conclusion on the appropriate balance of the equities. Transco fails to present “extraordinary circumstances” warranting a departure from application of the rule.

Setting aside its legally erroneous “lack of irreparable harm” argument, the crux of Transco’s argument is (1) that it has obtained the required Federal permits, and (2) that the Commission has already considered the environmental impacts of tree felling. These circumstances would be true for *any* construction impact associated with the Project. If this reasoning was sufficient to support a waiver, then § 157.23(b) would be waived in *every* case for *every* type of construction. As Transco’s request appears to be the first of its kind, the Commission should hesitate to set precedent establishing an exception that would swallow the rule.

Transco’s motion leans heavily on its agreements with landowners that would allow tree felling. Unlike the presumptive stay policy announced in Order 871-B, § 157.23(b) is not solely for the purpose of protecting landowners. Instead, it is meant to preserve the status quo while the Commission addresses issues raised on rehearing, which involve “challenging technical,

---

<sup>21</sup> See *Amoco Production Co. v. Village of Gambell, AK*, 480 U.S. 531, 545 (1987) (“Environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, *i.e.*, irreparable.”); see also *League of Wilderness Defs./Blue Mtns. Biodiversity Proj. v. Connaughton*, 752 F.3d 755, 764 (9<sup>th</sup> Cir. 2014) (“The logging of mature trees, if indeed incorrect in law, cannot be remedied easily if at all. Neither the planting of new seedlings nor the paying of money damages can normally remedy such damage. The harm here, as with many instances of this kind of harm, is irreparable for the purposes of the preliminary injunction analysis.”). See also Declaration of Faith Zerbe, Attachment A.

economic, and environmental matters, as well as complex legal issues.”<sup>22</sup> The rule “ensures that construction of and approved natural gas project will not commence until the Commission has acted upon the merits of any request for rehearing, *regardless of land ownership*.”<sup>23</sup> In Order No. 871-B, the Commission explained that “[g]overnmental, environmental, and community interests are also impacted by projects approved under NGA sections 3 and 7, and the possibility of construction proceeding prior to the completion of agency review.”<sup>24</sup> As a result, the Commission found it appropriate to refrain from permitting construction to proceed until the Commission has resolved requests for rehearing based on opposition to project need, construction, or operation.

The regulation was intended, in part, to protect those who live in communities that would be affected by construction. As evidenced by the attached declaration of DRN member Alexander Jackson, who lives 1400 feet from the proposed area of disturbance for the Effort Loop, tree felling would have an immediate and severe impact on his daily life as he travels to and from his home.<sup>25</sup> Community members like Mr. Jackson rely on § 157.23 to protect them from unnecessary impacts, and a waiver purely for Transco’s convenience would arbitrarily remove that protection.

Although Exelon exalts Transco for “heroically attempting to follow” a tight time frame for construction of the Project,<sup>26</sup> there is no basis in the record to conclude that the public interest requires that the Project must be in-service by the 2023-2024 heating season. In fact, the Certificate Order provides that the Project must be completed within three years from the date of the order—

---

<sup>22</sup> Order No. 871, *supra* n.16, P 9.

<sup>23</sup> *Id.* at P 11.

<sup>24</sup> Order No. 871-B, Limiting Authorizations to Proceed with Construction Activities Pending Rehearing, 175 FERC ¶ 61,098 at n.39 (2021).

<sup>25</sup> Declaration of Alexander Jackson, Attachment B, at ¶¶ 5–10.

<sup>26</sup> Answer of Exelon Corporation in Support of Motion for Waiver, Doc Accession No. 20230216-5123, Transcontinental Gas Pipe Line Company, LLC, FERC Docket No. CP21-94-000 (Feb. 16, 2023).

by January 2026.<sup>27</sup> The amount of time any individual project is granted for completion is determined on a case-by-case basis by the Commission.<sup>28</sup> If the public interest required an in-service date by the 2023-2024 heating season, the Commission had the ability to require it. The fact that Transco requested, on a number of occasions, the Commission to move expeditiously so it could meet its desired construction schedule does not in and of itself establish that the public interest demands adherence to that schedule. Accordingly, waiver in this circumstance would not serve the “public interest,” but rather would solely benefit Transco—a private entity.

Nor can Transco rely on any established expectation that it would be able to meet the tree felling window in 2022-2023, as “the timing of when to permit construction to begin is a matter entirely within the Commission’s existing discretion and not a matter of right.”<sup>29</sup> As the Commission explained in Order 871-B,

[T]he timing of an initial Commission decision on a project proposed under NGA sections 7 or 3 has always been undefined. While a project proponent may identify in its application a requested approval or in-service date, these dates are requests that do not control the timing of the Commission’s decision. . . . Neither the public nor the project proponent is privy to the date on which the Commission may act on a project application filed under NGA section 3 or 7. This mean that, even prior to Order No. 871, project development timelines had to account for some uncertainty in when the Commission might issue its decision on an . . . application and, if appropriate, subsequently authorize commencement of construction. Any incremental delay or uncertainty created by Order No. 871 is acceptable given the benefits that the rule provides.<sup>30</sup>

---

<sup>27</sup> See Order Issuing Certificate and Approving Abandonment, Transcontinental Gas Pipe Line Company, LLC, 182 FERC ¶ 61,006 P (C)(1) (Jan. 11, 2023).

<sup>28</sup> See 18 C.F.R. § 157.20(b).

<sup>29</sup> Order No. 871-B, *supra* n.24, P 35.

<sup>30</sup> *Id.* at P 36.



In fact, the average amount of time between the issuance of an initial order and an authorization to proceed with construction is eighty-five days<sup>31</sup>—which, if applied in this case, would be beyond the tree clearing window that Transco seeks to act within.

#### **IV. Conclusion**

For the reasons stated above, the Commission should deny Transco’s motion for waiver of 18 C.F.R. § 157.23(b), deny Transco’s request for notice to proceed for tree felling activities, and should refrain from issuing any authorization to proceed with construction activities, including tree felling, pending rehearing in accordance with 18 C.F.R. § 157.23(b).

Respectfully submitted,

/s/ Kacy C. Manahan

Kacy C. Manahan

Delaware Riverkeeper Network

925 Canal Street, Suite 3701

Bristol, PA 19007

215-369-1188 x115

[kacy@delawareriverkeeper.org](mailto:kacy@delawareriverkeeper.org)

*Attorney for Delaware Riverkeeper  
Network and Maya K. van Rossum,  
the Delaware Riverkeeper*

February 19, 2023

---

<sup>31</sup> *Id.* at P 37.

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Philadelphia, PA, this 19<sup>th</sup> day of February 2023.

/s/ Kacy C. Manahan

Kacy C. Manahan

Delaware Riverkeeper Network

925 Canal Street, Suite 3701

Bristol, PA 19007

215-369-1188 x115

[kacy@delawareriverkeeper.org](mailto:kacy@delawareriverkeeper.org)

*Attorney for Delaware Riverkeeper  
Network and Maya K. van Rossum,  
the Delaware Riverkeeper*

# Attachment A

## DECLARATION OF FAITH ZERBE

I, Faith Zerbe, state and affirm as follows:

1. I am of legal age, I am competent to give this declaration, and I have personal knowledge of the statements contained herein unless otherwise indicated, and could competently testify to them if called as a witness.

2. I earned a Bachelor of Science degree in Biology from Ursinus College in 1996.

3. I work for the Delaware Riverkeeper Network (“DRN”) as the Director of Monitoring. In my capacity as a biologist, I have been coordinating DRN’s environmental monitoring program since February of 1999. I am also a member of DRN.

4. Prior to working for DRN, I worked for Entrix, Inc. for two years as an environmental consultant. At Entrix, I served as an assistant staff scientist conducting assessments for Natural Resource Damage Assessments.

5. Since the summer of 2011, I have performed visual assessments and environmental water quality monitoring of several large linear gas pipeline projects. In my capacity at DRN, I recruit, train, and coordinate volunteer monitors to document conditions along and near the right-of-way (“ROW”) before, during and after construction.

6. In obtaining environmental data and reaching conclusions based upon my observations, I have employed principles and methods that are generally accepted in the scientific community. The observations and conclusions that I offer herein are made with a reasonable degree of scientific certainty.

7. A large percentage of the pipeline ROW footprint in Monroe and Luzerne Counties to be cut is forested in nature, with mature species of native canopy trees, understory, and mid layer trees, shrub species, and herbaceous forest dwelling groundcover species. Transco’s Request for Notice to Proceed for Tree Felling Activities<sup>1</sup> notes approximately 83 acres of mature tree felling is expected along the Effort Loop in Monroe County, 200 acres of mature tree felling along the Regional Energy Lateral in Luzerne County, and 5 acres of mature forest to be cut for Compressor Station 515 in Luzerne. In addition, New Jersey Compressor Stations 201 and 505

---

<sup>1</sup> Doc. Accession No. 20230215-5036, Transcontinental Gas Pipe Line Company, LLC, FERC Docket No. CP21-94-000 (Feb. 14, 2023) (hereinafter “Request for NTP”).

would require felling of another approximately 30 landscape trees. The subject of this declaration relates more to forest species than to landscape trees, as forests have their own dynamic and interrelated ecological systems.

8. The 288 acres of mature forest proposed to be cut would have detrimental, irreversible impacts to the environment on local, regional and national scales.

9. If mature trees are felled along proposed stream and wetland crossings, it would lead to changes in water quality. Some of these impacts would occur in designated Exceptional Value streams and wetlands or High Quality streams, which are subject to regulatory protections that require water quality to be maintained and protected.<sup>2</sup>

10. Tree felling near streams would lead to cascading negative ecological impacts to water resources. These impacts are exacerbated by repeated pipeline ROW forest cuts.

11. Additional solar radiation reaching the water column where decades-old canopy and midstory trees once flourished and shaded the stream would increase stream and wetland temperatures.

12. Because warmer water holds less oxygen, increased water temperatures from tree cuts would lead to a decrease in dissolved oxygen which fish, stream life, and macroinvertebrates need to survive and sustain life.

13. Many of the streams to be cut are native trout streams. Trout and the insects they eat survive best in cool, shaded streams. Tree cutting and repeated cuts within and adjacent to the pipeline ROW leads to cumulative harms that would degrade this fragile balance.

14. Macroinvertebrates (aquatic insects that can be seen with the naked eye and living under rocks in the stream) form the foundation of the aquatic and terrestrial food chain for many of the fish, including trout and other fish species that live and migrate in these cold streams. Aquatic insects when they mature and hatch out of the stream also help feed migrating birds, reptiles, amphibians, and other forest dwelling species. Insects such as stoneflies and mayflies require cold stream temperatures to thrive. As tree cuts increase water temperature from increased solar radiation, dissolved oxygen would decrease, making it more difficult for these animals to

---

<sup>2</sup> 25 Pa. Code § 93.4a(c), (d).

breathe. Juvenile species may be especially hit negatively by these increased stream temperatures. Many of these macroinvertebrates also feed on leaf litter and other vegetation that drops into the stream from nearby riparian forested buffers. Fall leaf packs and insects falling from nearby trees into the water column are important food for stream life that would decrease as trees are cut.

15. Along past pipeline cuts I have documented eutrophic conditions. As water temperatures increase along pipeline tree cuts and with additional sun exposure (that was once a shaded stream before tree cutting), algae can grow and thrive. When algae die and decay, it can rob the stream column of oxygen, adding to the dissolved oxygen troughs that thermal impacts from the increased sun exposure will cause. This cycle can be noted daily and over time with regular water monitoring which presently is not part of any of the permitting requirements despite EV and HQ streams being proposed for forest cutting.

16. Riparian buffer cutting of tree layers is especially harmful to the adjacent waterbodies and wetlands for the various ecological functions buffers provide (i.e. shading, light, filtration of nutrients, slowing of rainwater, destruction of food, air particle deposition and filtration, habitat, sheltered migratory wildlife pathways, etc.).<sup>3</sup> Though permits sometimes require necking down at waterbody crossings, impacts still occur to these waterbodies just by tree cutting alone and based on permitting conditions.

17. Many permits allow clearing of temporary and additional temporary workspaces by cutting mature trees in work areas near or adjacent waterbody crossings— these impacts are not temporary in nature as a mature forest will take decades if not longer to grow back into another forest. If this pipeline were cutting through lawn vegetation one could argue the impacts are temporary but cutting forests and mature trees as Transco is proposing will have long term consequences.

18. Transco's Request for Notice to Proceed states that dead and decaying trees and snags would be felled in addition to live trees.<sup>4</sup> Snags are important homes and food sources for wildlife. For example, many types of native birds including pileated woodpeckers, downy

---

<sup>3</sup> See ECONorthwest, *The Economic Value of Riparian Buffers in the Delaware River Basin* (August 2018), available at <https://www.delawareriverkeeper.org/sites/default/files/Riparian%20Benefits%20ECONW%200818.pdf>.

<sup>4</sup> Request for NTP at 3.

woodpeckers, hairy woodpeckers, nuthatches and more rely on snags to feed themselves and their offspring. Fungi and other plant species thrive during the decay process which helps with nutrient cycling, forest soil health and diversity of a multitude of micro-organisms found in healthy forest soil. Dying trees have great ecological value to the overall forest ecosystem.

19. Increased light on the forest floor from tree felling dries out and changes the forest soil structure, ecology, and diversity. Tree felling, with its increased light on the forest floor, can provide an avenue for opportunistic invasive plant species to colonize, which decreases forest diversity over time. Invasive opportunistic plants that often have very few natural predators can outcompete native species by forming monotypic stands of one species, decreasing overall biological diversity and the overall resiliency of the habitat in an ever-changing climate. Invasive plants like multi flora rose, tree-of-heaven, Japanese honeysuckle, English ivy, Vinca, and Japanese barberry are some examples of invasive plants that can impact and decrease the biological diversity and health of the forest when tree cutting is conducted. Linear pipeline corridors are especially damaging and serve as an avenue for these invasive plants to colonize long swaths of forest.

20. Increased tree cuts lead to increased forest fragmentation. The felling of trees along ever-expanding pipeline ROW paths inhibits safe migration of sensitive species like salamanders and other amphibians that breed in vernal pools and overwinter in forested areas nearby. Increased tree cutting in the ROW makes it more difficult physically for amphibians to migrate across these open cut areas. They may dry out due to increased solar radiation within the exposed tree cut path while traveling to and from their breeding grounds. They could also be eaten by predators who will be able to spot these small species due to decreased tree coverage.

21. Mature trees that are felled no longer can filter out air pollution, uptake carbon dioxide in the air or produce oxygen, leading to increased air impacts. Fewer living trees leads to more carbon buildup in the atmosphere, which increases local, regional and global temperatures and exacerbates catastrophic global climate change impacts.

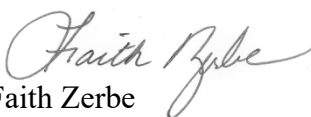
22. Tree foliage normally absorbs and filters rainwater and helps slow down stormwater runoff during rainstorms. Cutting trees with chainsaws eliminates these ecological service benefits that standing trees provide. Birds, bats, and other wildlife habitat that would nest, roost, feed, or find cover in these trees would be destroyed.

23. Transco's Request for Notice to Proceed states that trees may be felled perpendicular to streams in a manner that allows the tree to "bridge" the water. Fallen trees may be an obstacle to stream flow, especially during increased rain storms that are now commonplace in the area due to climate change.

24. Felling trees leads to changes in the forest adjacent to the cut trees. Forest fragmentation impacts including increases in light levels, increases in temperature levels, and invasive species colonization to adjacent forests along the pipeline corridor. These impacts have been documented along similar pipeline cuts. DRN conducted invasive species monitoring, air temperature monitoring, and water quality monitoring along pipeline cuts in Pennsylvania and documented much higher air and water temperature conditions on the cleared ROW compared to cooler forest temperatures 100 feet and greater in the forest away from the cleared ROW. Increased windthrow and wind damage from adjacent forest also occurs near ROWs.<sup>5</sup>

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 17, 2023

Signed:   
Faith Zerbe  
Director of Monitoring, Delaware Riverkeeper Network

---

<sup>5</sup> See Leslie Sauer, *An Overview of Pipeline Construction Impacts with Recommendations for Reducing Environmental Damage* (May 2014), available at [https://www.delawariverkeeper.org/sites/default/files/resources/Reports/SauerL\\_Achieving\\_Higher\\_Quality\\_Restoration\\_Alone\\_Pipeline\\_Rights\\_of\\_Way.pdf](https://www.delawariverkeeper.org/sites/default/files/resources/Reports/SauerL_Achieving_Higher_Quality_Restoration_Alone_Pipeline_Rights_of_Way.pdf).



# Attachment B

## **DECLARATION OF ALEXANDER JACKSON, PhD**

I, Alexander Jackson, PhD, state and affirm as follows:

1. I am of legal age, I am competent to give this declaration, and I have personal knowledge of the statements contained herein unless otherwise indicated, and could competently testify to them if called as a witness.

2. My address is 1355 Mathews Drive, Blakeslee, Monroe County, Pennsylvania.

3. I am a biologist, and I earned my PhD from the University of California.

4. I have been working for a local non-profit, the Brodhead Watershed Association for years, and one of my primary roles is an environmental educator. I am also a member of Delaware Riverkeeper Network.

5. My family and I live 1400 feet away from Transcontinental Gas Pipe Line Company, LLC's easement, near Effort Loop MP 53.5. I drive through this easement every day of my life to carry on my affairs.

6. All residents of Sierra View, which total over 1000, must drive through the easement regularly, because the two roads that cross the easement are the only egress out of the Sierra View community.

7. Lately, I have seen the fluorescent posts marking the area of disturbance for Transco's Effort Loop.

8. Should Transco's Request for Notice to Proceed for Tree Felling Activities be granted, then I, my family, and my neighbors will witness the ramifications of Transco's tree felling on a regular basis.

9. Tree felling is not a trivial impact to my community, and it will have lasting negative consequences to my quality of life.

10. I enjoy the bucolic, rural nature of my community. Seeing acres of felled trees lying along the viewshed of the pipeline easement would severely impact my enjoyment of this community and be devastating to my morale.

11. Due to the unusually warm weather we've experienced this winter, I have observed small mammals exiting their hibernation earlier than usual. Based on my experience, I also believe

that birds will likely begin seeking nesting sites earlier than expected.

12. It is likely that the endangered and threatened bats, who are vulnerable to the effects of tree felling, are also now out of hibernation. Thus, any tree felling that would occur between now and March 31, 2023, would negatively impact their life cycles.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: 2/17/23

A handwritten signature in black ink, appearing to read 'A. Jackson', written in a cursive style.

Signed:

Alexander Jackson, PhD