



March 20, 2023

Sent via electronic mail: [sonja\\_jahrsdoerfer@fws.gov](mailto:sonja_jahrsdoerfer@fws.gov)

Ms. Sonja Jahrsdoerfer  
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US Fish and Wildlife Service  
Pennsylvania Field Office  
110 Radnor Road, Suite 101  
State College, PA 16801-4850

**Re: USFWS Project #2022-0043217 - PNDI Receipt #702499 - Transco REAE Pipeline Tree Cutting Regulations to Protect T&E Species**

Dear Ms. Jahrsdoerfer,

The Delaware Riverkeeper Network, Aquashicola Pohopoco Watershed Conservancy, Brodhead Watershed Association, Clean Air Council, and Tobyhanna Creek/Tunkhannock Creek Watershed Association are writing in regard to the Transcontinental Gas Pipe Line Company, LLC (Transco) Regional Energy Access Expansion Project (REAE) pipeline project of which the USFWS provides consultation pursuant to the Endangered Species Act (Act) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) to ensure the protection of endangered and threatened species. The portion of the project for consultation per USFWS documentation includes 22.3 miles of 30-inch diameter pipeline loop in Luzerne Co, PA; installation of 13.8 miles of 42-inch pipeline loop in Monroe Co, PA; two wetland mitigation

sites located in Northampton and Luzerne Counties and installation or modification of compressor stations in Luzerne and York Counties, PA.

In short, we are writing as we believe that Transco may, as the end of March approaches, request a waiver to extend its tree cutting operation window for the project. Because of the vast harm it would bring to threatened and endangered species as outlined in your consultation, **we urge the USFWS to not allow any potential waivers for Transco's REAE pipeline. The window is to close for tree cutting/felling on March 31, 2023 to protect sensitive species and should not be extended beyond that date, especially in light of the sensitive and mature forested habitats, endangered and vulnerable bat species, and high quality and exceptional value watersheds and T&E habitat this pipeline expansion would cut through.**

As you may be aware, despite multiple rehearing requests to FERC, pending litigation by concerned conservation and public interest groups at the federal and state levels, including a March 14th appeal filed by PennFuture and Delaware Riverkeeper Network regarding Pennsylvania DEP's issuance of Chapter 105 and 102 permit permissions for the project, and conservation concerns from residents living in this important recreation and ecotourism area, FERC has prematurely granted Transco's Notice to Proceed (NTP) request to begin cutting/felling trees as of Thursday March 16, 2023. We believe this is a premature irreversible action by FERC where there is no indication that immediate construction is required on this project, and while significant weaknesses with FERC's orders are the subject of several petitions for review in the U.S. Court of Appeals for the D.C. Circuit. On Friday March 16, 2023, Transco also boldly requested FERC issue a NTP with full blown pipeline construction on the heels of securing the tree cutting request just hours before. FERC's order on rehearing was not even published until late Friday evening, March 17, 2023. On Friday, March 17<sup>th</sup> at 8:05pm FERC issued its order on rehearing requests filed by various conservation groups.<sup>1</sup> Several petitions for review of this order and the underlying certificate order have been filed in the D.C. Circuit. (See New Jersey Conservation Foundation v. FERC, No. 23-1064 (filed March 13, 2023), Delaware Riverkeeper Network v. FERC (filed March 20, 2023); and New Jersey Conservation Foundation v. FERC (filed March 20, 2023)). It is becoming rapidly clear Transco's pipeline has been slicked in the last few days as the agencies' approve yet another fracked gas pipeline segment expansion that record shows is not needed and that will cause tremendous harm to T&E species immediately, long term and globally with the impacts climate change brings. We urge you to please use your authority to ensure no waivers are allowed to the timelines set forth in the consultation.

As the USFWS Section 7 consultation clearance letter outlines this pipeline project will cut through sensitive habitats impacting threatened and endangered species.<sup>2</sup> Per USFWS calculations approximately 285.64 acres (203.23 acres associated with the REL and 82.41 acres associated with the Effort Loop) of tree removal is associated with the pipeline

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<sup>1</sup> Order on Rehearing, Granting Clarification, Denying Stay, and Dismissing Waiver, Transcontinental Gas Pipe Line Company, LLC, 182 FERC ¶ 61,148 (March 17, 2023).

<sup>2</sup> USFWS Section 7 Clearance Letter #2022-0043217 (formally 2020-0592), (August 31, 2022).

expansion, impacting various threatened and endangered bat species which are the reasons for certain restrictions for tree felling. Excerpt below from August 21, 2022 USFWS:

*“Fifty sites along the 30-inch-diameter pipeline loop in Luzerne County, referred to as the ‘REL’ portion of the Project were surveyed and 22 sites along the 13.8 miles of 42-inch-diameter Effort Loop in Monroe County were surveyed for bat (acoustic) calls by Transco’s consultant in accordance with the Service’s Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidance<sup>3</sup>. The survey report concluded probable presence for the northern long-eared bat at three survey sites along the REL and Effort Loop but probable absence of Indiana bats from both the REL and Effort Loop. The survey reports also indicated probable presence for eight other bat species along the REL and Effort Loop, including two species of Federal concern, the little brown bat (*Myotis lucifugus*) and tricolored bat (*Perimyotis subflavus*). Total tree clearing proposed within 3 miles of the northern long-eared bat detection areas along the REL and Effort Loop comprise a small percentage of the available forested habitat (0.42 % and 0.23 %, respectively). However, loss of roost trees within the roosting area of a northern long-eared bat colony can fragment or break up the colony and reduce fitness of colony members. To avoid directly killing or harming roosting northern long-eared bats within 3 miles of a summer acoustic detection location (Effort Loops Sites 7 and 8 and REL Sites 6, 12, and Bald Mt Alt Site 2), Transco proposes the following restriction/avoidance measure outlined in their August 19, 2022, Bat Restrictions Summary Table.*

- *Within 3 miles of summer acoustic detection locations (Effort Sites 7 and 8 and REL Sites 6, 12, and Bald Mt Alt Site 2), felling of all trees or dead snags greater than 3 inches in diameter at breast height that need to be harvested to facilitate the project (including any access roads or off right-of-way work spaces) will occur between November 16 and March 31 to avoid impacting bats roosting within the project area.*

### ***Hibernacula surveys***

*White-nose syndrome (WNS) is a devastating fungal disease that has killed large numbers of hibernating bats in eastern North America. Pd (*Pseudogymnoascus destructans*), the fungus causing the disease, has been detected throughout the range of the Indiana bat and northern long-eared bat in Pennsylvania. Known hibernating populations of Indiana bats and northern long-eared bats in Pennsylvania in the past decade have been severely reduced by WNS and many hibernacula have no bats remaining or single digit population numbers.*

*To evaluate the potential effects of the project to Indiana bats and northern long-eared bats, the qualified bat surveyor completed a survey for possible hibernation sites. Due to restrictions on handling bats in 2020 to mitigate the spread of SARS-CoV2, the Pennsylvania Game Commission (PGC) did not allow capture or handling of bats to infer species presence/absence during fall 2020 surveys; therefore, acoustic surveys were completed in fall 2020. Of 28 potential hibernacula acoustically surveyed from September 15, 2020, through October 31, 2020, probable Indiana bat presence was determined at a location referred to as “REL Hiber 07” and probable northern long-eared bat presence was determined in sites referred to as “REL Hiber 05”, “REL Hiber 09”, and “REL Hiber 17”. In fall 2021 when direct handling of bats was permitted by the PGC, an additional 28 potential hibernacula were surveyed using harp trapping techniques outlined in the Service’s Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidance, and probable northern long-eared bat presence was determined at a site referred to as “REL Hiber 46”. A juvenile non-reproductive male northern long-eared bat was captured at this site.*

*Follow-up internal mine surveys were conducted at REL Hiber 07 on March 18, 2022, by the PGC. No bats of any species were found. This leads the Service to conclude that either this hibernacula has an extremely low number of hibernating Indiana bats such that they were unable to be visually detected, or that the positive Indiana bat acoustic recording that was captured in fall 2020 during the 'no bat handling State restriction' recorded an Indiana bat or another Myotis species passing by outside of this mine. Still, Transco is considering REL Hiber 07 an Indiana bat hibernacula for the purposes of the Project.*

*As proposed, construction of the REL and the Effort Loop pipelines and associated infrastructure and access will not directly disturb any hibernacula entrances (Table 1) or be close enough to cause collapse, result in erosion, or otherwise directly affect these underground habitat features. However, because mine passage may extend below the Project area, Transco reviewed historic mine maps and concluded that the subject mines are located at sufficient depth that no disturbance is expected due to pipeline construction and that no shifting, filling, collapse or alteration of microclimate in the mine passages is expected as a result of pipeline trenching and installation.*

With the tree cutting now underway of 280 acres of mature functioning forest and trees adjacent to this ever-expanding pipeline ROW, most of which is important habitat and areas for bats and other threatened diverse sensitive wildlife, we urge you to require Transco to stay within its agreed-upon windows of work for tree cutting outlined in its August 19, 2022 Bat Restrictions Table and any other wildlife protections and operation windows mandated in the Consultation to minimize the harm this project brings to the species present. We would also request the status of the little brown bat and tricolored bat as the USFWS Service Listing Workplan indicates that a listing decision regarding the tricolored bat was expected in fiscal year 2022 and in fiscal 2023 for the little brown bat since these federal species of concern live in the area this pipeline corridor cuts across.

If you would like to set up a call or meeting to discuss with our concerned groups, please contact Delaware Riverkeeper's Director of Monitoring, Faith Zerbe at 215-369-1188 ext. 110 or [faith@delawareriverkeeper.org](mailto:faith@delawareriverkeeper.org). Thank you for your attention, time and concern on this matter.

Sincerely,

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