

## People's Dossier: FERC's Abuses of Power and Law →Illegal NEPA Predetermination

### FERC Illegally Predetermines the Level of Its NEPA Reviews

National Environmental Policy Act (NEPA) (*18 CFR § 380.3(b)(2)*) dictates that FERC evaluate the environmental impact of a proposed action by first preparing an Environmental Assessment (EA). If significant impacts are found during the preparation of the EA, FERC must then prepare a more comprehensive Environmental Impact Statement (EIS). If, as a result of the EA, it is determined that there will be no significant impact, then FERC issues a Finding of No Significant Impact and the Agency is deemed to have fulfilled its NEPA environmental review obligations.

Rather than enter into the EA process in good faith and with an open mind as to the outcome, an outcome that is informed by the information and data received from the public, agencies, and experts during the EA review process, FERC instead “eyeballs” a project applicant’s initial request and predetermines whether it will only undertake an EA and forego the more comprehensive EIS. Contrary to the mandates of NEPA, the EA is **not** used by FERC as the vehicle for determining the appropriate level of review. Instead, FERC routinely pre-determines the environmental review process it will use based on its own judgment.

For example, in response to concerns raised by Senator Elizabeth Warren regarding the Atlantic Bridge Project (*FERC Docket CP 16-9*), FERC issued a response stating that “The Commission staff will issue an environmental assessment (EA) to meet our responsibilities under the National Environmental Policy Act.”<sup>1</sup> In other words, FERC clearly stated, prior to its review, that the issuance of an EA would fully meet NEPA requirements.

This kind of advance determination is routine. Notably, and by way of further evidence of this assertion, FERC has **never** issued an Environmental Assessment that found possible significant impacts, or even unknown impacts, which would then require a full Environmental Impact Statement.

Such truncated environmental review procedures save the industry both time and money, and denies the public an unbiased review of project impacts as required by NEPA.

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#### **Attachments:**

Illegal NEPA Predetermination Attachment 1, FERC Chairman Norman Bay’s Letter to Senator Elizabeth Warren, February 12, 2016.

*Complete People's Dossier: FERC's Abuses of Power and Law*

available at <http://bit.ly/DossierofFERCAbuse>

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<sup>1</sup> See Illegal NEPA Predetermination Attachment 1, FERC Chairman Norman Bay’s Letter to Senator Elizabeth Warren, February 12, 2016.

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**Illegal NEPA Predetermination Attachment 1, FERC  
Chairman Norman Bay's Letter to Senator Elizabeth  
Warren, February 12, 2016.**

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

ASSOCIATED  
PUBLIC UTILITIES

February 12, 2016

OFFICE OF THE CHAIRMAN

The Honorable Elizabeth Warren  
United States Senate  
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your December 21, 2015, letter regarding Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC's proposed Weymouth Compressor Station as part of the proposed Atlantic Bridge Project (Docket No. CP16-9-000).

An application for the Atlantic Bridge Project was filed on October 22, 2015, following about eight months of participation in the Commission's pre-filing process in Docket No. PF15-12. Commission staff is currently reviewing the application and is conducting its environmental review. Once that review is complete, the Commission staff will issue an environmental assessment (EA) to meet our responsibilities under the National Environmental Policy Act. The EA will address the environmental impacts of constructing and operating the project facilities (including the Weymouth Compressor Station), and will include impacts on socioeconomics, air quality, and noise; alternative sites reviewed for the proposed Weymouth Compressor Station; and public safety. The EA will be published and distributed for a 30-day public review and comment period. You are on our mailing list to receive the EA when it is issued.

The Commission will consider the findings of staff's environmental analysis, along with the economic aspects of the project, before making its decision on whether or not to authorize this project. I can assure you that our decision will be based on a careful review of the issues relating to the project and will be rooted in law, facts, and science.

If I can be of further assistance in this or any other Commission matter, I hope you will not hesitate to let me know.

Sincerely,



Norman C. Bay  
Chairman

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