



August 21, 2017

Pennsylvania Department of Environmental Protection

400 Market Street, 12th Floor

Harrisburg, PA 17105-8468

[RA-EPAIRCOMMENTS@pa.gov](mailto:RA-EPAIRCOMMENTS@pa.gov)

**RE: Transco Atlantic Sunrise Pipeline Application, Air Quality Plan Approval 36-001GC**

Dear DEP Secretary Patrick McDonnell:

Delaware Riverkeeper Network (DRN) is writing to urge the Pennsylvania Department of Environmental Protection (PADEP) to deny the air plan approval application submitted by Transcontinental Gas Pipe Line Company, LLC (Transco) for its proposed Atlantic Sunrise (AS) pipeline project. Transco's Plan Approval application is for use of emission reduction credits ("ERCs") to offset emissions from the proposed Atlantic Sunrise pipeline project. Specifically, Transco seeks to transfer and use ERCs for 106 tons of nitrogen oxides ("NOx"), generated by a facility in Harford County, Maryland, to offset construction emissions in Lancaster County, Pennsylvania. Delaware Riverkeeper Network has also signed onto and supports all the substantive comments submitted by the Sierra Club for this air plan application on behalf of a coalition of Pennsylvania organizations that have great concern for the impacts this proposed pipeline project would cause for generations into the future if PADEP permits it to be built. Below are just some of the reasons DRN believes it is in PADEP and Governor Wolf's power, state authority and obligation to deny these AS permits.

Lancaster County air quality is already degraded. Lancaster County is a nonattainment area for the 2008 Ozone NAAQS and an attainment/maintenance area for the 1997 fine particulate matter NAAQS.

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

(Emissions of NO<sub>x</sub> are a precursor to both ozone and fine particulate matter formation). Yet DRN understands that PA discontinued its NO<sub>x</sub> monitoring in Lancaster and its current sensor only includes ozone and particulate monitoring. With bad air quality and non-attainment more monitoring of more parameters should be required by the PADEP to be more protective – not the discontinuing of sensors.

Pennsylvania air quality is also degraded, causing harm to our waterways and air and public health. Air pollution has impacts to water so all of these cumulative impacts for air and water should be considered in full by the PADEP as part of its other 404 and Chapter 105 reviews and vice versa. From DRN's water application comments for Transco 105 and 102 applications to the DEP (submitted May, 2016) and just for example, two of the five consecutive days (5/25 and 5/26/16 for Bristol, PA DEP air station) had ozone above the 70 ppb ozone standard (90 ppb and 85 ppb). In Tioga County, three of the five consecutive days (5/24, 25, 26/16) were in exceedance for ozone (73, 77, and 74 ppm). These exceedances were detected by DEP's ambient air quality monitoring program. Action days throughout the summer months in 2017 and throughout Pennsylvania are a common occurrence when examining the DEP's air datasets. According to the AIRNow real time data (<https://www.airnow.gov>), most southeast and northeast PA counties within or near the proposed pipeline path have had moderate air quality index (AQI) scores this summer. For the 2017 data alone for the Susquehanna Valley area (which includes Cumberland, Dauphin, Lancaster, Lebanon, and York Cos), there have already been 32 yellow action days for ozone and 93 yellow action days for PM2.5 (as of earlier this month). How can PADEP lawfully permit yet another large pipeline that will continue to exacerbate and cause more fracking pads to be built, that will in turn worsen Pennsylvanian's air for many more decades to come through the projected lifetime of the industry?

To date, Pennsylvania has no comprehensive analysis of cumulative air impacts caused from the fracking industry in the state nor a build out projection for increased fracking planned over the decades as more power plants and fracking and pipelines are built and put on line. By issuing piecemeal permits and approvals of trading plans for discrete components, DEP is allowing the industry to chip away at PA families' health and air quality – death by a thousand cuts. If DEP permits AS to be built, it would exacerbate more heat- trapping gasses and air pollution to the Commonwealth and beyond for the life time of the project – this pollution would not only come from the construction of the pipeline itself, but would also expand gas drilling in the shale region which in turn, would add more methane and more pollution to the air over the lifetime of the shale drilling industry.

There are already additional pipeline segments being considered as expansions of this AS pipeline system and connecting to it – DEP must consider all of these expansions and planned projects on a whole and not continue to permit them in a vacuum each as their own discrete segment. The proposed Williams Transco Northeast Supply Enhancement Project is just one example that clearly would connect or be planned as part of the AS pipeline network – Transco submitted an application to FERC for a Certificate of Necessity and Public Convenience on March 27, 2017 for this proposed pipeline project and they project constructing this project in 2019. As part of this project, according to the company’s website, a Compressor Station 200, East Whiteland, Chester County, Pennsylvania would add 21,000 HP by installing one electric motor-driven compressor unit; **approximately 10 mile, 42-inch loop (pipeline laid parallel to existing lines) in Lancaster County, Pennsylvania**; a Greenfield Compressor Station 206, Somerset County, New Jersey consisting of two natural gas compressor units and associated facilities; approximately 3.4 mile, 26-inch loop of Transco's existing Lower NY Bay Lateral from Transco 's Station 207 downstream to the Morgan metering and regulating station, Middlesex County, New Jersey (onshore); approximately 22 mile, 26-inch pipeline near Transco's existing Lower NY Bay Lateral from the Morgan metering and regulating station in Middlesex County, New Jersey to the Rockaway Transfer Point, New York State waters (**offshore**) <http://www.landscapes2.org/pipeline/ProjectsNortheastSupply.cfm>. In the analysis is DEP considering this project and the air pollution that would come with it among all the other pipeline projects and fracking projects the industry plans (note the leg proposed for Lancaster Co)? Is DEP considering the end use of where this gas may be going and transported (and the energy needed to transport the gas) as an offshore Transfer point is noted in this related project?

And what about what the industry is stating recently? Is PADEP and the Governor considering the end use? A lobbying group representing U.S. manufactures says the Department of Energy's continued approval of new LNG export terminals could significantly deplete American natural gas supplies within a little more than three decades. In a letter to Energy Secretary Rick Perry last week, the Industrial Energy Consumers Alliance asked Perry stop approving new LNG export terminals that will send American natural gas to countries without which the United States has a free trade agreement - as it does with Mexico and Canada <http://www.chron.com/business/energy/article/Factories-urge-Perry-to-slow-LNG-exports-11823301.php>. It has long been affirmed that much of the gas that would flow through the AS is destined for foreign markets. It would behoove that the Governor and the DEP examine the Key Log economic report commissioned by the Sierra Club for the Atlantic Sunrise that they put on record for this project in March 6, 2017 which outlines the true costs of this project. The expert report can be found here:

<http://content.sierraclub.org/press-releases/2017/03/report-exposes-true-cost-atlantic-sunrise-pipeline>

According to DEP’s pipeline portal and the overview of the AS project, “*The proposed AS project would consist of compression and looping of the Transco Leidy Line in Pennsylvania along with a **greenfield pipeline segment**, referred to as the Central Penn Line, connecting the northeastern Marcellus producing region to the Transco mainline near Station 195 in southeastern Pennsylvania. Additional existing Transco facilities are being added or modified to allow gas to flow bi-directionally. The proposed pipeline corridor will traverse 10 counties from northeastern Pennsylvania to the southern tier of Pennsylvania.*” It’s important to note that the supposed “greenfield pipeline segment” PADEP explains is the construction and operation of approximately 199 miles of pipeline facilities, including 185.9 miles of greenfield gas pipeline and two new compressor stations in Pennsylvania. As PADEP continues to segment and parce out and approve these segmented projects and permits (as has been done by FERC as well), it is failing to use the state’s full regulatory tools and authority available to it, and to uphold its very mission to examine the cumulative impact. The mission of the PADEP is to: protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens through a cleaner environment. The PADEP cannot uphold this mission if it continues to use this parcing practice that the industry puts forth. This is critical for the state since FERC is currently failing at this requirement ([bit.ly/DossierofFERCAbuse](http://bit.ly/DossierofFERCAbuse)). Despite the mandate of the National Environmental Policy Act (NEPA) that federal agencies take environmental considerations into account in their decision-making “to the fullest extent possible” (42 U.S.C. § 4332; 40 C.F.R. § 1500.2; *Fla. Audubon Soc. v. Bentsen*, 94 F.3d 658,684 (D.C. Cir.)) FERC routinely fails to meet its obligation to consider foreseeable drilling and fracking impacts directly resulting from its pipeline approvals, including water impacts, air impacts, community impacts and effects on climate change. Pennsylvania has a lot to lose being the planned exploitation of shale resources under the state – Pennsylvanian’s want and need the PADEP to use its state authority and power to do what the federal FERC agency is not. New York has begun this legal protection work - and the court agreed with its state authority in the proposed Constitution Pipeline case decision last week which had already unnecessarily harmed Pennsylvania forests and properties when DEP gave the industry too much power and the greenlight to tree cut before this vast pipeline that was fully permitted: (<http://www.lohud.com/story/news/politics/politics-on-the-hudson/2017/08/18/constitution-pipeline-ny-rejected-court/104714716/> ). Pennsylvania families deserve the same protection that New Yorkers and others in other states are receiving and not another rubber stamp.

The AS project would facilitate the building of proposed natural gas power plants – of which over 40 are being considered to be built in PA – another big source of methane burning and pollution that our climate

and health cannot afford. As PADEP continues to examine discrete regulatory components of pipeline projects and segmented pipeline projects and shale pad site applications, it is doing a tremendous disservice to the people of the Commonwealth. A cumulative examination of all impacts of the drilling industry for the state needs thorough analysis and review and by continuing to allow and permit these segmented projects, time and time again, is a failure of the department.

There is abundant and growing evidence for PA DEP to use its power and state regulatory authority available to it to deny this air application and the water applications for the 102 and 105 still under review and still inadequate based on Transco's submissions. Pennsylvanian's are being used as science experiments as the industry expands in the state by the hands of the PADEP. As of May, 2016 reviews on the DEP website, the Commonwealth had permitted 8,191 unconventional gas wells (since Jan 30, 2015) and this number has only increased since then. Physicians and Scientists for Safe Energy (PSE) has compiled almost 700 peer reviewed studies, 80% published since Jan 2013, that indicate some sort of harm from this industry. According to PSE, 72% of these original research studies on water quality indicate potential, positive association, or actual incidence of water contamination; and 95% of all original research studies on air quality indicate elevated concentrations of air pollutants. A recent Center for Disease Control (CDC) Study published in the Journal for Environmental Protection in April, 2017 finds the number of infant deaths in the first 28 days of life rose 29 percent in 10 heavily-fracked Pennsylvania counties in the, while the overall state rate declined 2 percent. These rates varied widely based on the region of the state investigated by researchers. In the five heavily-fracked counties in the northeast part of the state, the number of deaths from 2003-2006 vs. 2007-2010 climbed from 36 to 60, a statistically significant rate increase of 66%. The rate in the five counties in southwest Pennsylvania with active drilling rose 18%, from 157 to 178 deaths, but that rise was not statistically significant. "These results raise serious questions about potential health hazards of fracking, especially since fetuses and infants are most susceptible to the effects of environmental pollutants," states Joseph Mangano MPH MBA, a co-author of the study. "Health officials should conduct short- and long-term and epidemiology studies to better understand the extent to which local residents are affected." <http://world.350.org/pittsburgh/2017/05/23/cdc-data-indicate-steep-rises-in-infant-deaths-in-penn-counties-after-large-scale-fracking-began/>. The full journal article can be found here: [http://file.scirp.org/pdf/JEP\\_2017042413181160.pdf](http://file.scirp.org/pdf/JEP_2017042413181160.pdf)

It's DEP's obligation to use its authority and consider all of these beginning of pipe and end of pipe impacts that fracking and related infrastructure is causing and will exacerbate if these additional pipelines are permitted by DEP.

And what about the undercounting we understand of this industry and its fugitive emissions? Is DEP considering those studies in its analyses? Analysis by PSE of 2011 data show fugitive emissions of methane to be a critical concern that must be calculated fully and with a cumulative lens in mind by the PADEP as it examines the full footprint. Based on the PSE analysis, weighted by the study region's percent of gross domestic production, PSE estimates that real-world 2013 U.S. methane emissions from petroleum and natural gas systems were 16,141 to 18,952 Gg/y, compared to EPA's estimate of 7,589 Gg/y. This equates to 3.8% of the U.S. gross natural gas production. If DEP continues to undercount the impacts of this industry or use these low estimate numbers for its air analyses, it is failing to fulfill its mission required of it (<https://www.psehealthyenergy.org/wp-content/uploads/2015/11/Methane-Science-Summary.pdf>).

Governor Tom Wolf's own 48-person PA Pipeline Taskforce concluded better planning and **cumulative build out analysis of fracking infrastructure is needed**: "Pennsylvania will see as many as 30,000 miles of new pipeline built over the next 20 years to take ... gas resources of the Marcellus and Utica Shales to market," the former DEP Secretary Quigley stated. "... the industry will add 20,000-25,000 miles of gathering lines, and an additional 4,000 to 5,000 miles of interstate pipelines will be built over the next 20 years." There are over 10,323 unconventional gas wells permitted (as of March 2017). From January 1, 2000 to February, 7 2017 DEP logged 6,522 O&G violations within the Susquehanna River Basin<sup>1</sup>.

DRN believes there are multiple and recent court decisions that give the PADEP ability and power if it wants to use it to deny these AS permits. A recent decision just last week by the Pennsylvania Environmental Hearing Board this August found: PADEP's constitutional duties are not necessarily satisfied by compliance with statutory or regulatory standards. *See Center for Coalfield Justice v. Commonwealth of Penn. Dep't of Env'tl. Protection*, EHB Docket No. 2014-0720B at 62 (Aug. 15, 2017) ("In the abstract, we find that certain impacts that don't impair a stream but do impact it, can, based on their scope or duration, rise to the level of causing unreasonable degradation or deterioration. Finding otherwise would mean that you are treating the Article 1, Sec 27 Constitutional standard as coextensive with compliance with the statutes and the regulations governing clean water. The Supreme Court in *PEDF* clearly rejected such an approach...."). Moreover, PADEP's mission is to "*protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens* through a cleaner

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<sup>1</sup> Fracktracker Alliance, Susquehanna River Basin Impacts Project, <https://www.fracktracker.org/projects/susquehanna-river-basin-impacts-project/>

environment.”<sup>2</sup> <https://stateimpact.npr.org/pennsylvania/2017/08/15/environmental-groups-score-legal-win-in-longwall-mining-case/#more-50374>.

Then there is the 2013 Constitutional case that Governor Wolf has even been citing in some of his talks. While for years the Pennsylvania environmental community has looked to the promise of Pennsylvania’s constitution and its promise of “pure water”, “clean air” and “preservation of the natural ... environment”, the fulfillment of that promise had for a long time alluded PA; consistently swept aside by the Pennsylvania legislature and its courts. So much so that when the Delaware Riverkeeper Network included the PA Constitution’s Environmental Rights Amendment as a cornerstone of the legal attack on the pro-drilling legislation known as Act 13 many derided us as wasting limited legal briefing space and resources. But, the Pennsylvania Supreme Court, in *Robinson Township, Delaware Riverkeeper Network, et.al. v. Commonwealth* (Dec. 19, 2013), vindicated the importance and power of the Environmental Rights Amendment of the Pennsylvania Constitution; it promised all generations of Pennsylvanians that they will benefit from pure water, clean air and a healthy environment, giving them the ability to defend that right in the courts if it is violated. The Pennsylvania Supreme Court decision should inspire a new generation of environmental protection in Pennsylvania by the PADEP – inspiring strong, environmentally protective legislation by newly emboldened and empowered legislators, and supporting strong litigation when industry dollars are used to drive bad legislation and bad political acts.

Finally, the recent supersedeas and halt to HDD drilling along the Mariner East 2 pipeline ordered by an EHB judge and the subsequent settlement should give PADEP pause and power to deny these pipeline permits. The settlement documents and the judge's order are available on the court docket: [http://ehb.courtapps.com/public/document\\_shower\\_pub.php?csNameID=5409](http://ehb.courtapps.com/public/document_shower_pub.php?csNameID=5409). This case was brought by the community led by Clean Air Council, Mountain Watershed Association, and the Delaware Riverkeeper Network.

In closing, if denial of the permits is not fulfilled, and if the DEP modifies this air plan or replaces the MD facility with another facility, it is critical that the public has another 30 days at minimum to review the new information and application. DRN also wants to get on record that as Transco continues to supply additional information on the still inadequate and deficient applications to its water permit applications, it is critical that DEP provide the public adequate time and at least a minimum 30 days to review this information before considering approval of the permit. It is also unclear how DEP deemed the application

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<sup>2</sup> See <http://www.dep.pa.gov/About/Pages/default.aspx> (emphasis added).

complete to hold public hearings yet then issued another deficiency letter in July after the hearings and public comment had closed. This time and review by the public is necessary for the public process to be fulfilled. It is evident from the most recent Transco packet submitted to the PADEP for the 105 and 102 applications on July 31, 2017, none of the technical deficiencies outlined by Schmid experts submitted on the record and related to water impacts have been addressed by Transco. It would not be prudent in light of the Mariner 2 debacle with the permitting that DEP rush this process since it is predicated on much of the regulations that harmed people and properties along the ME2 line.

Furthermore, DRN recently uncovered via a FOIA major omissions by FERC and TGP in its Orion pipeline project (another pipeline by TGP in Pennsylvania currently under construction). This type of review is necessary by PADEP in light of what appears like a blatant omission in the alternatives analysis which could have eliminated the need for this expansion project in the first place.

[http://www.delawariverkeeper.org/sites/default/files/Emergency%20Stay%20Orion%20PADEP\\_FINAL1.pdf](http://www.delawariverkeeper.org/sites/default/files/Emergency%20Stay%20Orion%20PADEP_FINAL1.pdf).

Finally, with a PA legislature that continues to undermine the existing budget and the authority of the PADEP, there is no justification for permitting more infrastructure that the DEP will not have the resources to adequately police. Nor is it acceptable, as is currently being proposed by our Pennsylvania elected officials under proposed HB 542, HB 118, and HB 453 tied to the budget, that we further out-source or streamline permitting to give the industry even more control in the state and put time clocks on an already strapped PADEP staff to have to review and decide on a permit in a short timeframe that is unreasonable and not protective to the people and the public that live here. This is an enormous infringement to our rights in the Pennsylvania constitution to clean air, water and land. We urge PADEP and the Governor to deny the air and water permits under review by the PADEP for the detrimental Atlantic Sunrise pipeline project and all the other projects connected to it that will further contaminate our air, water and land. As the community implored you to do at the public hearing last Monday, we echo - PA DEP do your job. Deny the permits.

Thank you for your time and consideration of our comments and concerns.

Regards,

Maya K. van Rossum  
the Delaware Riverkeeper

Faith Zerbe  
Director of Monitoring



cc. Governor Tom Wolf

DEP Secretary Patrick McDonnell

Army Corps

Enclosures