

West Amwell Township  
150 Rocktown Lambertville Road  
Lambertville, NJ 08530  
May 4, 2017

VIA ELECTRONIC SUBMISSION

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
Washington, DC 20426  
Re: Comments on Final EIS Docket CP15-558-000 - Proposed PennEast Pipeline Project

Dear Ms. Bose:

The Township of West Amwell (hereafter “the Township” or “West Amwell”) submitted a number of comments and objections to the Draft EIS issued by your agency in July of 2016. FERC has subsequently issued a Final EIS in April 2017. West Amwell has since reviewed the FEIS, and determined that our original comments on the DEIS were in many cases not adequately addressed. Further, we have found that many of our issues did not even have a response in the FEIS at all.

The following is a portion of the issues that the township has found. Note that this is not a comprehensive list, as the township lacks adequate resources and time to thoroughly vet an environmental review of this magnitude which is so clearly riddled with mistakes, inaccuracies, and omissions.

### **1. Comments on Alexauken Creek (An NJDEP designated Category 1 stream)**

In our commentary, West Amwell pointed out that the DEIS provided no detailed construction plans for 32 of New Jersey’s most pristine Category One streams, including the Alexauken Creek in West Amwell Township, and does not provide plans for HDD (horizontal directional drilling) or for minimizing impacts to riparian buffers.

HDD plans for the Alexauken creek area were eventually submitted by PennEast over two months after the Draft EIS was issued, on September 23rd 2016. We noted that these plans appear to be based almost entirely on desktop surveys, and PennEast did not provide adequate information in the form of on-the-ground surveys and geological bores to prove that HDD is feasible at that site. The Township further elaborated that it fears if HDD proves to be unsuccessful, PennEast will follow the suit of the Leidy Southeast Expansion project, and request FERC and NJDEP will give them permission to open trench instead. Open trenching of

our C1 waterway would violate NJDEP regulations and have disastrous effects on water quality in our township and the region.

The later PennEast filings showed some details of a proposed Horizontal Directional Drilling (HDD) site under Alexauken Creek and Route 202. This HDD proposal has a horizontal length of 6,300', with a drill length of 6,361', and will be up to 283' under the ground. The Township indicated that this is an area that is well documented to have bedrock within a few feet of the surface.

The drilling depth goes down over 100', which will bring the pipeline down to the depth of our resident's wells. It is well documented that nearly all residents in this area use private well water. The HDD attempt could easily contaminate our residents wells directly, pierce aquifers, reroute water flows and change flow rates for existing wells, and otherwise render resident's drinking water unusable. This is totally unacceptable and was not addressed in the FEIS. How can you mitigate for well disruption/contamination across such a large region?

There is a very large construction impact at the entry/exit points where the HDD enters/exits the ground. The buffers of the Category One Alexauken Creek will be seriously compromised/compacted by heavy machinery and cannot be mitigated. The DEIS provides no construction plans for crossing the streams and does not provide plans for HDD or for minimizing impacts to riparian buffers.

The Township asked that, given the high likelihood of HDD failure, FERC must look at the extensive environmental impacts in West Amwell Township and the relation to the Federal/State Protected Alexauken Creek. This Category One waterway is protected under NJDEP's Surface Water Quality Standards in conformance with the Federal Clean Water Act.

### **From the Final EIS:**

In regards to our comments on the DEIS, the FEIS states the following:

*"An unnamed tributary to Alexauken Creek would be crossed using the HDD method. We have reviewed PennEast's HDD Inadvertent Returns and Contingency Plan and HDD profiles; however, we are recommending that PennEast file results of all outstanding geotechnical investigations and file final design plans for each HDD crossing.*

*"TABLE 2.3.1-1 HDD Locations for the PennEast Pipeline: Alexauken Creek 99.7R2100.9R2 6,300 Hunterdon Partially Complete."*

The Township has found that neither the DEIS and the final EIS have addressed the impacts of construction on water quality on the Alexauken Creek. PennEast has also not filed HDD designs, nor has it addressed the significant risk of contamination of our resident's wells. The Township cannot accept a Final EIS which does not comprehensively deal with potential

impacts to the Alexauken Creek and does not guarantee its integrity will be kept intact. An “IOU” from PennEast to FERC on this matter is not acceptable.

## 2. Comments on Hydrostatic testing

FERC indicates the following from the Executive Summary [ES-5, ES-6] on the topic of Hydrostatic testing:

*“PennEast is proposing to use both surface water and municipal water sources for hydrostatic testing that would ensure the safe integrity of pipeline operations. In total, PennEast anticipates withdrawing about 18 million gallons of water for hydrostatic testing. Because PennEast has not identified the final hydrostatic test water withdrawal locations, we are recommending that, prior to construction, PennEast provide documentation of the final hydrostatic test water withdrawal sources and locations, and provide documentation that all necessary permits and approval have been obtained for withdrawal from each source.”*

West Amwell noted in its comments that the exact sources of this water in our area must be identified beforehand. West Amwell and surrounding towns have very limited water resources (a hard fact which drives the Master Plan of all towns in the region), and PennEast must take this consideration into account.

It is not clear if water would be drawn from our NJDEP protected C1 Alexauken Creek, the federally protected Delaware River, or other local sources.

In terms of municipal water, the Township has no municipal water supply, and no fire hydrants or other regular water sources anywhere near the proposed favored route.

The Township noted that PennEast had identified the Suez West Amwell Reservoir as a confirmed source of water for hydrostatic testing. This reservoir is the primary water supply to the city of Lambertville. However, we noted the construction (with blasting almost certainly to be required) is perilously close to the reservoir dam, which has been classified by State agencies as a “High Hazard Dam”. Its failure would almost certainly lead to loss of life and/or extensive property damage in Lambertville and West Amwell.

Local officials have been in contact with Suez, and Suez claims that PennEast lied about contacting Suez about a source of water for hydrostatic testing. Suez reps vehemently denied having talked to PennEast about sourcing water for hydrostatic testing at all.

The Township has further concerns that PennEast may be planning to bring in water from outside of our region for such testing. The Township would require PennEast to document thoroughly that said water is not contaminated. Neither PennEast nor FERC have affirmed that such documentation would be provided.

In the DEIS, FERC is recommending that, prior to construction, PennEast provide documentation of the final hydrostatic test water withdrawal sources and locations.

We noted that by only requiring PennEast provide such information “Prior to construction”, that this robs the Township and residents in the area from providing direct public input into the decision making process. This robs the Township and its residents of their due process rights, and could prove to be a disaster for both West Amwell and Lambertville.

### **From the Final EIS:**

The FEIS states:

*“PennEast is proposing to use both surface water and municipal water sources for hydrostatic testing that would ensure the safe integrity of pipeline operations. In total, PennEast anticipates withdrawing about 33 million gallons of water for hydrostatic testing. Because PennEast has not identified the final hydrostatic test water withdrawal locations, we are recommending that, prior to construction, PennEast provide documentation of the final hydrostatic test water withdrawal sources and locations, and provide documentation that all necessary permits and approval have been obtained for withdrawal from each source.”*

West Amwell notes that the EIS is materially no different from the DEIS, with most data omitted, and that this is not acceptable to us. The Township objects to this important information being left as a detail to be filled in later. The Township believes that lack of such information means FERC is making decisions within its FEIS that cannot be supported by concrete evidence, for the simple reason that FERC is allowing the company to proceed without supplying the required information for analysis.

The Township notes that courts have required agencies such as FERC to take a “hard look” at environmental impacts under the National Environmental Policy Act (NEPA). Telling PennEast to eventually submit data months or years after an FEIS is issued - data that PennEast could easily submit today - violates the court’s interpretation of NEPA, and FERC’s duties under those rulings.

### **3. Comments on Impaired Waterbodies and Waterbodies with contaminated sediments crossed by Pipeline Facilities:**

The Township has noted the following technical information to FERC on the Alexauken Creek:

*“Alexauken Creek - Milepost 100.4 - Uses -Aquatic Life, Trout, Recreation, Public Water Supply Impairment – Temperature.”*

That is, there is aquatic life present, including Trout, it serves as both public water supply and for recreation. And that there is already temperature impairment of the stream.

We noted to FERC in our comments on the DEIS that the clearing and grading of stream banks would reduce riparian vegetation and expose soil to erosional forces. The use of heavy equipment for construction could cause compaction of near surface soils, an effect that could result in increased runoff into surface waters in the immediate vicinity of the construction right-of-way. Increased surface runoff could transport sediment from uplands into surface waters, resulting in increased turbidity levels and increased sedimentation rates in the receiving waterbody. Disturbances to stream channels and stream banks could also increase the likelihood of scour after construction.

We noted that the DEIS does not address the fact that the high pressure pipeline would further exacerbate the temperature impairment of the Alexauken Creek, nor does it address the pipelines' impact on the potential contamination of the public water supply as the Alexauken Creek is a tributary to the Delaware River which is the water supply for millions of NJ and PA residents.

The DEIS has also not examined the Alexauken Creek and the streams which feed into the federally protected Delaware River as to whether increased sedimentation and nutrient-loading would have a negative impact on water quality.

#### **From the Final EIS:**

The Township has noted that Final EIS does not address these comments at all. The Township does not see how FERC can have considered taking a "hard look" at Alexauken Creek impacts when it ignores important comments on it such as this. Further, a great deal of information about the Alexauken is available from the NJDEP, so FERC cannot claim ignorance on this matter.

## **4. Comments on Stymiest Road as a PennEast Access Road**

The Township noted in our comments to the DEIS that Stymiest Road in the Township was being proposed as an access road by PennEast. The proposed access road would run from the vicinity of the Suez Water Company reservoir and drinking water treatment area to the west directly down a very steep slope, and connecting to Stymiest Road near its terminus. Stymiest Road (which turns into Quarry Street in Lambertville) would then presumably be used as a heavy construction access road.

The Township objected in its comments on the DEIS to this proposed access road and its connection to Stymiest Road as unacceptable for a number of reasons:

1. Stymiest Road is a very narrow one-lane dirt road that winds up a very steep slope to connect to the Rockhopper Trail in West Amwell. The drop-off on the side of the road is significant.
2. There are several houses on Stymiest Road, with Stymiest Road being their sole egress from their properties, and Stymiest terminates in a dead end to the East.
3. The connection from Stymiest Road/Rock Road to the town of Lambertville is in the form of a single very small, one lane stone bridge.
4. Stymiest Road/Rock Road thereafter connects to Quarry Street in Lambertville, an exceptionally narrow thoroughfare zoned at 25 mph with numerous speed bumps.
5. Stymiest Road is documented as historical road of extreme significance. It was historically known as Bungtown Road/ the Road to Monmouth, and Stymiest Road is of unique historical significance, and local historical experts deem it “likely the most historical road in the nation”. It has been largely untouched going back hundreds of years.
6. According to local West Amwell and Lambertville historian, John Hencheck, “The Road along the Rocks” is now threatened by the construction of a new natural gas pipeline, the PennEast project. Once destroyed, this sacred ground of the American Revolution will exist as only on the pages of a book.

### **From the Final EIS:**

On this topic, the FEIS states:

*“Compliance with Section 106 of the NHPA has not been completed for the Project. PennEast still needs to complete surveys and evaluation for archaeological sites and historic architecture for the Project. To ensure the FERC’s responsibilities under the NHPA and its implementing regulations are met, to the extent feasible, PennEast would use existing roads as a means of accessing the Project.*

*PennEast would access the pipeline construction right-of-way and aboveground facilities via 128 access roads. Of the 128 access roads 102 are existing or partially existing roads, 55 of which would require improvements. The existing or partially existing access roads consist of gravel roads, dirt roads, and paved roads. Following construction, ten access roads would be maintained for operation of the Project, three of which would be newly constructed.”*

We noted that there is no reference to West Amwell’s comments and observations in the Final EIS. FERC appears to have ignored the Township entirely on its concerns of impacts to Stymiest Road.

## **5. Comments on Goat Hill Natural Heritage Priority Site**

In its comments on the DEIS, the Township noted that Goat Hill within the Township is a Natural Heritage Priority Site, and the pipeline was routed through the site.

For background, through its Natural Heritage Database, the Office of Lands Management within the NJ DEP identifies critically important areas to conserve New Jersey's biological diversity. The database provides detailed, up-to-date information on rare species and natural communities to planners, developers and conservation agencies for use in resource management, environmental impact assessment and both public and private land protection efforts.

As mentioned, Goat Hill is such a Natural Heritage Priority Site. Goat Hill is the westernmost boundary of the Sourlands. It is a steep, woody diabase hillside and the site contains three state endangered plant species. The PennEast route crosses this Natural Heritage Priority site.

This site was preserved in its entirety by the New Jersey Department of Environmental Protection, Green Acres in 2008. It is now known as Goat Hill Overlook.

The Township noted in its comments that PennEast has repeatedly and erroneously under stated the impacts to the Goat Hill Natural Heritage Priority site, and misidentified where the Priority site sits. PennEast erroneously believed the priority site was strictly contained to the park near George Washington Road, but in fact the Goat Hill Priority Site contains the entire hill (as we indicated in a map submitted to FERC showing the Priority Site Delineation, and where PennEast was impacting it).

### **From the Final EIS:**

The Township has found no response to our comments on the Natural Heritage Priority Site, or indeed any reference to the Natural Heritage Site at all. Our comments on this matter have been ignored by FERC and not been taken into account in the FEIS. This is very troubling as we have noted above that Natural Heritage Priority Sites such as Goat Hill are the most critically important preserved areas in the entire State of New Jersey. Neither PennEast nor FERC seem to acknowledge or care about critically preserved land in our region, and once again ignoring information about this area is in contrast to the required "hard look" under NEPA.

## **6. Comments on protection of wells, groundwater, and drinking water**

Since the primary source of drinking water for Township residents is groundwater, the Township of West Amwell has protected its valuable groundwater resources for current and future residents and businesses. Township officials understand that the protection of water

quality and quantity is critical to supporting public health and quality of life. They also understand that protection of these resources is not only critical for their own citizens but also for other citizens of New Jersey and Pennsylvania located downstream from West Amwell. We have made extensive comments on this topic in our comments to FERC on the DEIS, and have objected strenuously to the total lack of knowledge PennEast has demonstrated in this area.

The DEIS claims that there are only 2 wells within 150 feet of PennEast's proposed route in the entire state of NJ, which is completely and inarguably false. The DEIS notes no wells at all within 150' within the Township, which is completely inaccurate. All of the homes along the proposed route are strictly on well water, there is no municipal water in any of those areas.

The Township also has noted that numerous West Amwell residents with homes along the route have commented on the DEIS indicating that they do in fact have wells within 150' of proposed construction.

### **From the Final EIS:**

The Final EIS does not address this critical concern at all. The only change we have noted is that FERC has changed the number of impacted wells in NJ from "0" to "TBD". The Township objects in the possible strongest of terms to critical information about drinking water for our residents being listed as "To Be Determined" in a supposed Final Environmental Impact Statement. This is especially troubling as many residents have specifically indicated to FERC that they have wells within the designated zone.

The Township further notes that the arbitrary 150' distance does not appear to be an accurate gauge of impact in our area. Professional water studies done within the Township by firms such as Princeton Hydro have indicated that well impacts from construction can be felt from thousands of feet all the way up to a mile away from construction. The arbitrary FERC limit of 150' is understating the potential true impact to drinking water supplies to residents within the township.

## **7. Comments on impacts to septic systems**

As with impacts on drinking water wells, the Township has also noted concerns with septic systems near or on the proposed route. The Township noted that the Draft EIS found no septic systems to be within 150' of the proposed route, and that this assertion is false. As with drinking water, there are no municipal waste systems within West Amwell. Instead, residents rely on private septic systems for waste management.

## **From the Final EIS:**

The Final EIS re-iterated the DEIS' assertion that no septic systems are within 150' of the proposed construction. This is, once again, demonstrably false. Both PennEast and FERC are being willfully ignorant of the simple fact that the rural towns that PennEast is proposing to traverse do not have extensive municipal systems, and that septic systems are a fact of life in our towns. FERC is willfully ignoring the serious impacts disturbances to septic systems would have both on directly impacted landowners, and also on the drinking water of residents in surrounding such impacts. The Township objects in the strongest terms to our concerns in this critical area being utterly ignored by FERC. Once again, ignoring critical data does not constitute a "hard look" as mandated by the courts under NEPA.

## **8. Conclusion**

West Amwell Township concludes that there is very little difference in data or lack thereof between the EIS and the DEIS. Both documents are incomplete and unacceptable as accurate and true Environmental Impact Statements.

The Township asks that FERC reconsider our comments, and the comments of many other municipalities, agencies, and residents in the area who were ignored or who received inadequate responses. Per FERC regulations, given the lack of current data FERC should suspend the current process and instead pursue issuing a Supplemental EIS which contains the information missing in the FEIS.

It is not possible for FERC to draw conclusions as to the impacts of the proposed PennEast pipeline on the residents and the environment with so much missing and incomplete data.

In support of our assertion, both the US Army Corps of Engineers (USACE) and the NJ Department of Environmental Protection recently stated that there was insufficient data in the PennEast permit applications to them for Clean Water Act water quality permits.

The USACE has told PennEast that it will not further process its application, or even supply timelines for doing so, until PennEast has significantly greater survey information to back up its assertions.

The NJDEP has made similar assertions, and has further indicated that the PennEast application is invalid on its face, and will be rejected within 60 days unless this is corrected (and PennEast being able to make such corrections within 60 days seems highly unlikely at this juncture).

Without a Supplemental EIS, the Township feels its concerns have been ignored by FERC, and that FERC's decisions here are therefore in violation of the court's "hard look" requirements on NEPA.

Thank you.

John Dale, Mayor

Stephen Bergenfeld, Deputy Mayor

James Cally, Township Committeeman

Gary Hoyer, Township Committeeman

Zach Rich, Township Committeeman

Rob Tomenchok, Chair, Planning Board

Cathy Urbanski, Chair Environmental Commission and Pipeline Committee

Dave Beaumont, Environmental Commission, Pipeline Committee, and Finance Committee

Janice Zuzov, Environmental Commission, Pipeline Committee

Jennifer Andreoli, Environmental Commission, Pipeline Committee