DEPARTMENT OF THE ARMY
US Army Corps of Engineers, ATTN: CENAN-OP-RU
Upstate Regulatory Field Office
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APR 24 2015

Upstate New York Section

SUBJECT: U.S. Army Corps of Engineers File Numbers NAN-2014-00751-USH and LRB-2014-00528, by Tennessee Gas Pipeline Company, LLC, Federal Energy Regulatory Commission Docket No. PF 14-22-000. USACE Comments on Draft Environmental Resource Reports dated March 2015.

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Dear Secretary Bose:

The United States Army Corps of Engineers (USACE) respectfully submits the following comments on the Tennessee Gas Pipeline Draft Environmental Resource Reports (DRPs) for the Northeast Energy Direct (NED) Project.

Resource Report No. 1:

1.1.1 Purpose and Need

The DRPs provide a substantial purpose and need description as related to the Supply and Market Path component. However, it fails to provide the same in-depth discussion regarding the purpose and need of the project as it pertains to environmental documentation. The USACE recommends more detailed environmental documentation, which will provide a complete discussion of purpose and need.

1.1.3 Location Maps, Detailed Site Maps, and Plot/Site Maps

The DRPs indicate that aerial photographic maps were utilized to depict properties along the proposed NED Project right-of-way (ROW) with the proposed facilities and meter stations superimposed over the images. However, the specific locations for the new compressor stations will be identified in a future revised Resource Report 1. Please note that once this information is provided the USACE will likely carry out site inspections of these proposed areas to verify their location, and then potentially provide comments on their placement.

1.2 Land Requirements
1.2.3 Access Road
1.2.4 Additional Temporary Workspace
1.2.5 Pipeyards and Contractor Yards

The utilization of remote sensing and desktop resources may be useful in overall planning and proposed lay-out, but these resources will not be accepted as sufficient quantifications for

permitting purposes. USACE will provide more in-depth comments pertaining to the quantification of land impacts once more reliable information becomes available, including but not limited to, access to properties within the proposed ROW for aquatic resource delineations, and alignment revisions in response to public and other agency/stakeholder requests. In addition, please note that temporary work space, access roads, pipe yards, etc., should not be designed to occur within federally regulated aquatic resources.

1.2.6 Areas of No Access
1.2.7 Non Surveyed Areas

The DRP indicates that publically available data sources were utilized for areas where field surveys have not yet been completed. This methodology typically does not account for ephemeral streams/drainages, seeps, springs, etc., and presents other undesirable assumptions in the accurate prediction of the presence/absence and size of aquatic resources. Therefore prior to making a permit decision, the USACE will need field delineations of all parcels proposed to be impacted by the project. The USACE respectfully requests that FERC also defer a decision on the project until all parcels have been delineated.

1.9 Cumulative Impacts

In addition to being a requirement of the National Environmental Policy (NEPA), a cumulative impact analysis is required pursuant to the Environmental Protection Agency's (EPA) 404(b)(1) Guidelines under Section 404 of the Clean Water Act (40 CFR Part 230). In addition, cumulative impacts are considered under the USACE Public Interest Review.This determination involves an evaluation of twenty (20) public interest factors listed in 33 CFR 320.4(a)(2). We request the Cumulative Impact Analysis include both the 404(b)(1) Guidelines and the Public Interest Review Factors.

Resource Report No. 2:

2.2.1 Pipeline Facilities

Paragraph two on page 2-21 states "Table 2.2-3 provides a summary of all waterbodies crossed by the Project as classified by the Commission's Procedures (i.e., minor, intermediate, major)". The USACE respectfully contends that such a statement cannot be made until the entire ROW has been field surveyed and all stream types, including ephemeral streams have been identified. The USACE recommends that the statement and Table Name be amended to indicate that the information reflects what is known as of the applicable date. In addition, the information should be further quantified separately, clearly identifying the quantities that have been field surveyed versus those quantities that have been estimated utilizing desktop/remote sensing methods.

Paragraph one on page 2-34 states "NHD data sets (USGS 2015) were used to identify waterbodies for no-access parcels, and are included in Tables 2.2-4 through 2.2-8. In the absence of field survey data, Tennessee has identified these as a single line feature and provided a 3–foot crossing length, which is also Tennessee's protocol for small waterbody features delineated in the field as a centerline feature". After reviewing these tables it was observed that the majority of the crossing lengths were greater than 3 feet for all waterbodies that have been field surveyed. Therefore, in the absence of field survey data it is

recommended that Tennessee revise their protocol to more accurately reflect actual crossing lengths to better provide an accurate estimate of the total stream crossing lengths for the project.

2.2.1.2 New York
Table 2.2-5

The methodology used to generate this table does not account for ephemeral streams. Further, the majority of the waterbodies listed within this table are identified with the NHD prefix, indicating that these areas have not been field surveyed, and all the numbers represent approximations.

2.2.2 Aboveground and Pipeline Appurtenant Facilities

Paragraph two states "no long-term or permanent impacts on surface water resources associated with construction or operation of the proposed aboveground and pipeline appurtenant facilities are anticipated". We recommend this section be clarified since it is unlikely a determination of no long-term or permanent impacts can be confirmed until all surface waters are field surveyed.

2.2.11 Waterbody Construction and Mitigation Procedures

The DRP indicates that Tennessee will conduct post-construction field inspections along the pipeline corridor to ensure that disturbed locations are restored in accordance with the procedures detailed in the Commission's Plan and Procedures and incorporated into the project-specific ECPs for each state. Please note that the USACE would require 'before' and 'after' photographs of each stream crossing to ensure compliance with USACE restoration requirements, which may differ from FERC'S Plan and Procedures. In addition, the USACE would require that the third-party monitor conduct the post-construction field monitoring work.

2.2.11.1.1 Method 1: Conventional Trenching (Wet Open Cut)

The USACE would not support wet open cut trenching for stream crossings. Any stream crossings should utilize the dry crossing methods described in the DRP.

2.3.1.2 New York

This section provides a description of how the New York State Department of Environmental Conservation (NYSDEC) classifies wetlands. The USACE recommends additional information be provided with regards to federally regulated wetlands. The federal definition of wetlands as stated by the USACE and the U.S. Environmental Protection Agency (USEPA) is as follows, "Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions."

The USACE requests that the text clarify that except for several specific exemptions and exclusions, under Section 404 of the Clean Water Act, the USACE regulates aquatic resources, including wetlands regardless of size, and streams that exhibit perennial, intermittent, and ephemeral flow regimes. The NYSDEC co-regulates a sub-set of the federally regulated

wetlands, specifically wetland complexes that are 12.4 acres and larger as well as wetlands having unique importance as determined by the NYSDEC.

Table 2.3-3 and Table 2.3-4

It is not clear from the tables if the impacts represent permanent loss of waters, temporary impacts, or permanent/temporary impacts resulting from the conversion of one wetland type to another (i.e., forested or scrub/shrub to emergent). The USACE requests clarification regarding these impacts.

In addition, both tables utilize the U.S. Fish and Wildlife Service National Wetland Inventory (NWI) Maps for areas that have not been field surveyed. The NWI maps were not developed for use as confirmation as to the presence/absence of federally (USACE) regulated wetlands. Therefore, the absence of a mapped NWI wetland in an area cannot be a definitive determination that federally (USACE) regulated wetlands are not present on site. In order to obtain accurate, definitive information regarding the presence/absence of federally (USACE) regulated wetlands the areas must be field surveyed. Therefore, as the field surveys are conducted and the information is updated within these tables, the USACE will provide further comments as the numbers reflected will represent more reliable data.

2.3.8 Mitigation of Impacts

We request that a mitigation plan that follows the requirements of Title 33 of the Code of Federal Regulations Part 332 be incorporated into the environmental documentation to mitigate for proposed impacts to waters of the U.S.

Resource Report No. 3:

3.1.2.3 New York Programs

The focus appears to be on NYSDEC protected streams, and coordination and identification of streams based on NYSDEC classification. Please include language that explains that these streams are co-regulated by the USACE and that the project will impact numerous (yet to be identified) streams not regulated by the NYSDEC. The majority of stream impacts will be to streams not regulated by the NYSDEC, however, the discussion should not imply that these streams are less important in terms of functions and services in the watershed.

3.1.3 Construction and Operation Impacts

Paragraph 3 allows for wet open cut crossings. The USACE maintains that no wet open cut crossings should be allowed.

Paragraph 2 on page 3-15 states "Removal of streamside trees and vegetation at the pipeline crossings may reduce shading of a stream temporarily, eliminate escape cover, and potentially result in a locally elevated water temperature near, and downstream of the pipeline crossing that the removal of streamside trees will result in temporary impacts". In addition, the DRP states that "Once installation activities for the pipeline segments are complete, disturbed areas will be restored to pre-construction conditions and stabilized to prevent erosion of exposed soils and sedimentation to on- and off-site resource areas". Please clarify

what is meant by 'restored to pre-construction conditions and stabilized'? The USACE strongly recommends that disturbed stream banks be replanted with both woody stems (shrubs and trees), in addition to herbaceous cover. The USACE would not support the sole utilization of riprap when other, more ecological methods, can be employed.

3.1.4 Measures to Avoid, Minimize, and Mitigation Impacts

The USACE reiterates that replanting stream banks should be a fundamental method of minimizing and mitigating for both impacts associated with the pipeline installation.

3.2.1.8 Waterbodies/Open Water

The DRP states that waterways defined under 'waterbodies', are identified as greater than 10-feet wide. The USACE requests clarification and justification for this definition. The pipeline ROW will most certainly cross many streams smaller than 10-feet wide, and will be considered as waterbodies. This parameter also does not account for ephemeral streams. The USACE recommends that width parameters for identifying waterbodies be removed from the Tennessee evaluation methodology. The methodology should include all streams regardless of width or flow regime, to ensure that quantification and identification is not misleading.

3.2.2.6 Project-Wide Habitat: Interior Forest

The USACE recommends that all forested wetland areas outside of the ROW be replanted with native tree species that replicate the pre-construction canopy at a rate of 500 stems per acre.

3.4 Endangered and Threatened Species

Paragraph 2 states "Tennessee's qualified wildlife biologists and botanists have already begun developing sampling protocols for various plants, invertebrates, birds, and mammals...". The U.S. Fish and Wildlife Service has sampling protocols for select species within the project area, and these should be utilized.

Table 3.4-1

The Federal status of the Northern long-eared bat (*Myotis septentrionalis)* needs to be modified to Threatened (T).

3.4.2.1.2 Northern Long-eared bat

This paragraph states that (at the time of the DRPs writing) the northern long-eared bat (NLEB) is a Candidate species for federal listing. The NLEB was never a Candidate species. The NLEB was proposed for listing, and is now listed as Threatened.

Additional Comments:

A USACE permit decision can be made only after the entire pipeline ROW has been delineated and all impacts to waters of the U.S. (WOUS) are accurately assessed. We recommend all temporary workspace be located outside of wetlands or other WOUS. In addition, all temporary access roads in wetlands should be removed upon completion of the project.

In addition to the information contained in the draft DRPs, the USACE will require site specific 8" x 11" black and white engineer-type drawings that depict temporary and permanent impacts associated with the project. These impacts include, but are not limited to, contractor staging areas and pipe yards, alternative work spaces, access roads, and cathodic protection ground beds. These drawings should be on the same scale as the wetland delineation drawings and clearly depict, with shading or other means, all waters where impacts are proposed.

Note that access roads outside of the ROW are considered part of the project area. Therefore all proposed access road corridors associated with the project, or any existing roads proposed to be modified, inside or outside of the project ROW, should be delineated to accurately quantify temporary and permanent impacts to WOUS. Drawings should distinguish access roads as existing or proposed.

Under a Memorandum of Understanding between FERC and USACE dated 11 July 2005, FERC was acknowledged as the lead agency for the purposes of complying with the National Environmental Policy Act, as the responsible Federal agency for authorizing the construction and operation of interstate natural gas pipelines. Where appropriate, the USACE will adopt FERC's NEPA documents. However, the USACE cannot issue a permit decision for a project until all required consultations under NEPA are completed. These include consultations under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act (NHPA), which requires government-to-government consultation with the Tribes. In addition, although 36 CFR Part 800 allows a Federal agency to use the services of consultants to prepare information, analysis, and recommendations, a lead agency official remains legally responsible for all required findings, determinations, and government-to-government consultation with Tribes. We also note that any proposed mitigation sites, contractor staging areas and pipe yards, alternative work spaces, access roads, and cathodic protection ground beds must be included in these reviews. The USACE Regulatory Program's implementing procedures for the protection of historic properties can be found at 33 CFR 325, Appendix C. These regulations are further supplemented by Interim Guidance, dated 25 April 2005 and 31 January 2007 which can be found at:

http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx

The USACE appreciates the opportunity to comment on the DRPs. We request that FERC coordinate a preliminary copy of the Draft Environmental Impact Statement (DEIS) for USACE review prior to publication.

If you have any questions you may contact Brad Sherwood at (518) 266-6355 or Brad.Sherwood@usace.army.mil.

Sincerely,

Brad Sherwood
Project Manager
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