

ORIGINAL



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

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CP14-529

November 10, 2014

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

FILED  
SECRETARY OF THE  
COMMONWEALTH  
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OFFICE OF THE SECRETARY OF ENERGY

Re: Tennessee Gas Pipeline Company, LLC  
Docket No. CP14-529-000  
Connecticut Expansion Project -  
Sandisfield, Tyringham and Agawam

Dear Secretary Bose,

The Massachusetts Department of Environmental Protection (MassDEP), appreciates the opportunity to comment on the Environmental Issues and assessment of the proposed Tennessee Gas Pipeline Company - Connecticut Expansion Project New York, Connecticut and Massachusetts. It is our understanding that FERC may require an Environment Assessment (EA) or a full Environmental Impact Study (EIS). This letter summarizes the impacts MassDEP would like to see addressed in the currently proposed EA. Specifically in Massachusetts, the project components are located in the Towns of Sandisfield, Tyringham, and Agawam. Applicable MassDEP regulatory and permitting considerations regarding wetlands, waterways, wastewater, drinking water, air pollution, solid and hazardous waste, and waste site cleanup are discussed.

## I. Project Description

The Connecticut Expansion Project involves construction of approximately 3.8 miles of 36-inch outside diameter gas pipeline in Sandisfield, 0.11 miles of 24-inch outside diameter gas pipeline in Agawam, and appurtenances including a relocated mainline valve, two pig launchers, and a pig receiver. Both new pipelines will be located within or adjacent to the Tennessee Gas pipeline right-of-way. An approximately 2-acre pipe yard/staging area is proposed to be located in Tyringham. The project exceeds a threshold for a mandatory Environmental Impact Report through the Massachusetts Environmental Policy Act (MEPA) review process.

The entire project includes the expansion of lines through New York and Connecticut. The Sandisfield portion of the work is to extend an existing pipeline 3.8 miles to create storage capacity of natural gas to meet increased demand for Connecticut customers.

The Proponent acknowledges that the project is an expansion of the facilities and therefore, the work is not subject to exemptions from the Massachusetts Wetlands Protection Act and Clean Water Act.

The project will require filing a Notice of Intent (NOI) with each municipality where work is proposed, a Section 401 Water Quality Certificate from MassDEP, a (Section 404) permit from the U.S. Army Corps of Engineers, a permanent easement from the Massachusetts Department of Conservation and Recreation, and review by the Massachusetts Natural Heritage and Endangered Species Program. The project as described in the MEPA process includes the following environmental impacts within MassDEP jurisdiction:

- 19 l.f. Bank,
- 315,377 s.f temporary impacts to Bordering Vegetated Wetlands (BVW); 95,396 s.f permanent impacts,
- 18,295 s.f temporary impacts to Isolated Vegetated Wetlands (IVW); 0 s.f. permanent, and
- 96,267 s.f. temporary impacts to Riverfront Area; 24,828 s.f. permanent,
- Withdrawal from a surface water body and discharge to the ground of over 1,000,000 gallons of water for hydrostatic pressure testing.

## II. Required Mass DEP Permits and/or Applicable Regulations

### Wetlands and Waterways

310 CMR 10.00

314 CMR 4.00

314 CMR 9.00

### Wastewater

314 CMR 7.00

### Air Pollution

310 CMR 7.00

### Solid Waste

310 CMR 16.000

310 CMR 19.000

### Bureau of Waste Site Cleanup

310 CMR 40.0000

## III. Permit Discussion

### Bureau of Resource Protection

#### Wetlands

The proposed project includes nearly 4 miles of new gas pipeline installation, staging and system upgrades with work located in three communities in Massachusetts. As noted by the Proponent in the MEPA documents, the project area contains resource areas regulated under Federal and Massachusetts statutes/regulations. Wetlands resource areas impacted in the project regulated in Massachusetts include Bank (Inland), Bordering Vegetated Wetland, Riverfront Area, Isolated Land Subject to Flooding and Isolated Vegetated Wetlands. Although not identified in the MEPA document, work will also impact Land Under Water Bodies as there are proposed stream crossings of the pipeline. The Proponent also identified multiple vernal pools in the

project right-of-way. The project must also comply with MassDEP's Stormwater Management Standards.

A total of approximately 16 acres of wetlands resource areas will be impacted in Massachusetts. The project will result in conversion of wetland resource areas, specifically, conversion of forested wetland to scrub/shrub wetland (6.31 acres during construction; 2.22 acres permanent operation).

The Proponent is also proposing to withdraw approximately 1,000,000 gallons of water from Lower Spectacle Pond at a rate of 2,000 gpm for the hydrostatic pressure testing of the pipeline. This withdrawal should be permitted though the Sandisfield Conservation Commission. The Proponent has been advised to consult with the Massachusetts Department of Fish & Game to design the withdrawal.

The project exceeds threshold requiring a Section 404 permit from the U.S. Army Corps of Engineers and the following permit from MassDEP:

**Water Quality Certification**

Section 401 Water Quality Certification (WQC) issued by MassDEP is required for this project. The Proponent is required to provide sufficient information to adequately describe cumulative impacts to "Waters of the United States within the Commonwealth" (Bordering and Isolated Vegetated Wetlands and Land Under Water). The WQC regulations require impacts to be avoided, minimized and mitigated.

Although the U.S. Army Corps of Engineers, under their Section 404 permitting has three options for mitigation (Mitigation Banks, In lieu of fee, and Permittee-responsible mitigation), Massachusetts 401 WQC regulations only allow for permittee-responsible mitigation.

The following comments are relative to permitting under the Massachusetts Wetland Protection Act and regulations

**Limited Project Provisions**

The work may be submitted for review under one of the Limited Project provisions. Proposed work must, where possible, meet *General Performance Standards*; work that cannot meet *General Performance Standards* may be approved as a limited project. Limited Project status requires the Proponent to demonstrate practicable avoidance and minimization of alteration to jurisdictional resource areas, and then describe appropriate mitigation measures for remaining, unavoidable alteration.

**Boundary Determination and Delineation**

All delineation of jurisdictional resource areas should be accomplished through flagging in the field, surveying, and then presented on a scaled site plan. The Proponent is referred to MassDEP guidance documents and the regulations for specific requirements and methods for all resource delineations. MassDEP is available to provide additional assistance and offers the following guidance for specific delineations:

- o Boundaries of Bordering Vegetated Wetlands (BVW) - "*Wetlands Protection Program Policy: Bordering Vegetated Wetlands Delineation Criteria and Methodology*" (MassDEP 1995), *Delineating Bordering*

*Vegetated Wetlands Under the Massachusetts Wetlands Protection Act (MassDEP 1995). Submittal of properly prepared "MassDEP Bordering Vegetated Wetland Delineation Field Data Forms" (Appendix Gs)*

- Delineation of the Mean Annual High Water Line (MAHWL) of all perennial rivers on site should be performed in accordance with regulations; the Proponent should be aware that use of "bankfull field indicators" may be necessary and justification of the methodology may be required.
- USGS topographic quadrangle maps reviewed to identify "presumptive" perennial streams; streams should be included in plans. Regulations stipulate requirements necessary to overcome the presumptive status of a mapped perennial stream.
- Jurisdictional intermittent streams should have the Bank resource area identified and not just the centerline.

**Bordering Vegetated Wetland**

MassDEP notes that there is no reference to "temporary impacts" in the Act or regulations. The Proponent should describe these activities in terms of "in-situ" replacement, i.e., the excavation and fill disturbance will be "replaced" in accordance with regulation within the footprint of that disturbance. The Proponent is also referred to *Massachusetts Inland Wetland Replication Guidelines* (DEP March 2002) for the planning and construction of Bordering Vegetated Wetland "replacement area".

**Bordering Land Subject to Flooding**

Although not initially identified, the Proponent should confirm no impacts to floodplain will occur though any portion of the project as plans progress. If floodplain is identified, site plans should show the boundaries of the "Lower Floodplain" and the Proponent should demonstrate that adequate compensatory flood storage is provided. In addition, if the "Lower Floodplain" proposed to be altered is naturally vegetated and/or composed of a natural substrate, the applicant will be required to meet the General Performance Standard.

**Riverfront Area**

At least one stream crossing is proposed within the project area. Streams shown as intermittent or not shown on the latest USGS map should be reviewed as to whether they may be considered perennial in accordance with 310 CMR 10.58(2)(a)1 to establish jurisdiction.

Work conducted in undisturbed Riverfront Area, must meet General Performance Standards; work conducted within existing degraded Riverfront Area may be submitted as "redevelopment". The Limited Project provisions noted above may also be applicable to work conducted in the Riverfront Area.

**Massachusetts River and Stream Crossing Standards**

Although not proposed at this time, the Proponent should be aware that any new permanent jurisdictional stream crossings must comply with the *Massachusetts River and Stream Crossing Standards*. Any improvements proposed to existing culverts should comply with *Design Standards for Culvert Replacement* in that document.

The Proponent should consider whether crossings will impact high quality streams. These include: NHESP Living Water Cores, NHESP BioMap cores, ACECs, Anadromous Fish Runs, and Cold Water Fisheries. These are shown at: [www.streamcontinuity.org/assessing\\_crossing\\_structures/prioritizing\\_streams.htm](http://www.streamcontinuity.org/assessing_crossing_structures/prioritizing_streams.htm).

### Waterways

The Proponent has not identified work apparently subject to *Public Waterfront Act, Chapter 91* for impacts to navigable waterways but has been advised to review all work for applicability of that statute.

### Drinking Water & Wastewater

This project consists of several miles of new underground utility work within multiple municipalities. Although the proposed work lies within existing Rights of Way (ROWs) MassDEP advises the Proponent to contact and coordinate with each community to ensure the routes do not include or potentially impact municipal water, sewer and stormwater structures.

Discharge of the hydrostatic pressure testing of the new pipeline will require the Proponent to apply for and receive a NPDES permit.

### National Pollutant Discharge Elimination System (NPDES)

U.S. EPA requires the *Remediation General Permit* which would be issued jointly by EPA and MassDEP. Activities Category Section IV (3) of the General Permit identifies Hydrostatic Testing of Pipelines and Tanks:

[http://www.epa.gov/region1/npdes/remediation/RGP2010\\_FactSheet.pdf](http://www.epa.gov/region1/npdes/remediation/RGP2010_FactSheet.pdf)

<http://www.epa.gov/region1/npdes/remediation/Appendix-A.pdf>

The Proponent is proposing to withdraw approximately 1,000,000 gallons of water from Lower Spectacle Pond; discharge is presently proposed to an upland area. The permitting process will include extensive testing to determine water quality and potential treatment.

### Groundwater and Surface Water Quality Standards

The Proponent is referred to the following regulations for guidance regarding water quality standards:

*310 CMR 4.00 Surface Water Quality Standards*

*310 CMR 40.0000 Massachusetts Contingency Plan*

## Bureau of Waste Prevention

### Air Pollution

#### Construction and Demolition Activities

The construction and demolition activity must conform to current Air Pollution Control Regulations. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during the construction and demolition activities. Such measures must comply with the MassDEP's Bureau of Waste Prevention (BWP) Regulations 310 CMR 7.01, 7.09, and 7.10.

#### Construction Equipment

MassDEP believes it is necessary to mitigate the construction-period impacts of diesel emissions to the maximum extent feasible and recommends that the project proponent participate in the MassDEP Diesel Retrofit Program. As of

June 1, 2010, all non-road engines shall be operated using only ultra low sulfur diesel (ULSD) with a sulfur content of no greater than 15 ppm pursuant to 40 CFR 80.510.

### **Solid Waste**

The Proponent shall properly manage and dispose of all solid waste generated by this proposed project pursuant to 310 CMR 16.00 and 310 CMR 19.000, including the regulations at 310 CMR 19.017 (waste ban).

Asphalt, brick and concrete (ABC) generated through crushing and reuse on-site must be handled in accordance with regulation and policy. Otherwise, the proponent would need to obtain a site assignment and facility permit for the crushing activity and a Beneficial Use Determination (BUD) for the reuse of the crushed material. More information regarding the handling of ABC, and a copy of the 30-day notification form may be found at the following website:

<http://www.mass.gov/eea/agencies/massdep/recycle/reduce/using-or-processing-asphalt-pavement-brick-and-concrete-.html>.

The BUD regulations at 310 CMR 19.060 establish levels of assessment for four categories of beneficial use. Similarly, the fee regulations at 310 CMR 4.00, et seq. were amended. These amended regulations would be applicable to reuse of any materials generated by this project that would otherwise be considered solid waste.

The project Proponent should be advised that construction activity at the site must comply with both Solid Waste and Air Quality Control regulations. The appropriate Solid Waste provisions addressing this include M.G.L. Chapter 40, Section 54.

### **Bureau of Waste Site Cleanup**

There are no active/open disposal sites governed by the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan (MCP) within the project site. MassDEP did receive an A2 Response Action Outcome (RAO) Statement in 2006 for Release Tracking Number (RTN) 1-14946 located within the proposed work area in Tyringham.

If soil and/or groundwater contamination is encountered during work activities, the Proponent must retain a Licensed Site Professional (LSP); the MCP details procedures to follow for the parties conducting remediation and cleanup work.

### **Blasting**

Although all environmental impacts from the use of perchlorate-containing blasting agents and explosives have not been fully defined, MassDEP recommends that contractors take the following steps to minimize potential problems from perchlorate contamination:

- To the extent practical, avoid the use of perchlorate-containing explosives
- When the use of perchlorate-containing products is unavoidable:
  - Determine the perchlorate content of blasting agents and explosives to be used
  - Institute rigorous "housekeeping" practices.
  - Take reasonable steps to prevent and address misfires
  - In all cases, the safety of workers and the general public is of paramount concern

The following link provides additional information:

<http://www.mass.gov/eea/agencies/massdep/cleanup/regulations/contamination-perchlorate-containing-explosive-products.html>

**Spills Prevention**

A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential future on-site activity releases.

**IV. Additional Comments**

This project is also subject to the requirements of the Massachusetts Greenhouse Gas Initiative. The Massachusetts Secretary of Energy and Environmental Affairs has required an assessment under the GHG through the MEPA process. With regard to GHG, the Proponent should consider assessing potential impacts from construction as well as long term operation and maintenance of the pipeline.

The Massachusetts Secretary of Energy and Environmental Affairs, under the MEPA process, required that a full Draft and Final Environmental Impact Report be completed for this project. MassDEP appreciates the opportunity to comment on the scoping of the EA and requests that FERC incorporate all of these issues into its analysis.

MassDEP wishes to preserve the regulatory authority of the local Conservation Commissions (and MassDEP under an appeal) as well as our permitting authority under *Section 401 Water Quality Certificate* and joint jurisdiction with U.S. EPA for issuance of the *NPDES General Permit for Remediation*.

If you have any questions regarding this comment letter please contact Catherine Skiba at (413) 755-2119 or [catherine.skiba@state.ma.us](mailto:catherine.skiba@state.ma.us).

Sincerely,



Michael Gorski  
Regional Director

cc: MEPA File

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