



Delaware River Basin Commission

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Steven J. Tambini, P.E.
Executive Director

February 26, 2018

Maya van Rossum
Delaware Riverkeeper Network
925 Canal Street, Suite 3701
Bristol, PA 19007

Ms. van Rossum,

DRBC has received your letter dated October 5, 2017, your sign-on letter dated December 1, 2017, and a series of form letters that were received on February 9, 2018 which contain similar content. We have also received your letter of February 15, which addresses some of the same subjects but includes new topics as well. Our responses below are set forth in the order of the requests presented in your October letter. To the extent that your letter of February 15 addresses new issues, we will respond to it under separate cover.

Your Comment: *"The Public Is Entitled to Equal Access in the Form of Site Visits/Tours, Expert Reports, Meetings."*

You have correctly noted that DRBC staff have met with the applicant several times and have participated in limited site visits with the applicant's representatives. Staff routinely meet with applicants to gain a better understanding of the scope and specific details of new projects, especially when a project is large or complex. DRBC staff use field visits as needed to support our review process. Based upon the size and scope of the PennEast project, and given that this project has undergone changes since the application was initially submitted to the DRBC, more than one meeting with the applicant during the course of our technical review has been necessary. Importantly, DRBC views interactions with the applicant as a matter of due diligence in our technical review process.

You have requested that DRBC staff spend several days touring areas of particular concern to DRN and other petitioners. We recognize that you have concerns about this project that you consider to merit on-site inspection. We have not visited the entire project with the project sponsor, nor do we anticipate visiting each of the locations of concern flagged by commenters. DRBC staff does not intend to schedule a tour with you at this time. However, we will certainly consider additional site visits where we deem them to be appropriate based upon information received from you and others.

You also noted that DRBC staff have met with experts engaged by the project sponsor. To gain insight into the concerns of the public regarding arsenic, in addition to meeting with the applicant's arsenic experts, DRBC staff also met with Dr. Tullis Onstodt and some of his academic colleagues, who have commented on behalf of project opponents.

Your Comment: *"Has DRBC Rejected PennEast's Offer to Assist in Responding to Public Comments?"*

DRBC does not delegate responsibility to an applicant to respond to public comments. However, where facts about a project are at issue, we routinely seek clarification from available sources, including from the applicant, regarding the proposed activities.

Your Comment: *"Please Confirm that DRBC Agrees Its Review, a Draft Docket & Public Hearings on PennEast are Premature."*

You have provided examples of NJDEP and PADEP regulatory processes that include a determination that an application is "administratively complete". DRBC rules do not provide for such a determination. As long as the project sponsor submits an application, a fee, and enough supporting information to allow staff to commence our review, the technical review begins. Additional documentation or changes to a project are sometimes initiated by the applicant and sometimes requested by the Commission staff. Because the determination you request is not a part of the DRBC's process, no such determination will be issued. If you believe the record contains inaccurate information, you are encouraged to submit for the Commission's review and consideration documentation that supports your views.

For a description of the status of our ongoing technical review, please visit DRBC's web page dedicated to this subject: <http://www.state.nj.us/drbc/programs/project/pr/penneast.html>. No date for publication of a draft docket has been set, and no public hearings have yet been scheduled. The Commission will announce details of our public process simultaneously with publication of the draft docket, by means of web posting and circulation to our PennEast "Interested Parties List" (IPL). As for the statements made in our November 14, 2014 letter and the Commission's regulatory requirements, we have nothing to add. These statements stand on their own.

Your comment: *"Please Confirm, or Deny, that DRBC Intends to Exercise the Full Extent of Its Jurisdiction Over PennEast."*

In accordance with section 3.8 of the Compact and DRBC's implementing regulations, the Commission is exercising its jurisdiction to review the portion of the project that is proposed to be located within the Delaware River Basin for the purpose of ensuring that the project will not impair or conflict with the Commission's comprehensive plan. As you noted correctly in your letter, Section 3.8 provides that the Commission's project review authority applies to all projects *"having a substantial effect on the water resources of the Basin."* It reads in relevant part as follows:

The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan.

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You have quoted many of the applicable rules in your letter and have extensive experience with the Commission's project review process, including for similar types of projects.

Thank you for your continued interest in the work of the Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read "St. Tambini", with a large, stylized initial "S" and a long, sweeping underline.

Steven J. Tambini, P.E.
Executive Director

c: DRBC Commissioners
Pamela Bush, Esquire