April 1, 2013

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

RE: Comments on Environmental Assessment for the Planned Hancock Compressor Project, Millennium Pipeline Company, Docket No. CP13-14.

Dear Ms. Bose and FERC Commissioners:

The Delaware Riverkeeper Network ("DRN"), the Clean Air Council ("CAC"), and the Catskill Mountainkeeper ("CM") – collectively referred to as "commenters" – have a number of concerns about the Environmental Assessment for the Millennium Pipeline Company's ("Millennium") proposed Hancock Compressor Project ("Hancock Project"). On August 10, 2012, commenters submitted scoping comments to the Federal Energy Regulatory Commission ("Commission") identifying a number of issues that needed to be addressed in the forthcoming Environmental Assessment for the Hancock Project.[1] We incorporate by reference all of the comments that have yet to be adequately responded to from our August 10, 2012 submission, which include, but are not limited to: a lack of assessment evaluating the harms from natural gas consumption, insufficient project engineering detail for the project, inadequate project siting alternatives, improper segmentation of Minisink Compressor Project, insufficient cumulative impact analysis, and the improper overbuilding of capacity. In addition to those previously cited

[1] *See* Exhibit A, Comment of the Delaware Riverkeeper Network and Clean Air Council, submittal no. 20120810-5128 (Aug. 10, 2012).

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issues, commenters also provide below new concerns regarding project segmentation and air quality impacts.

I. Improper Segmentation of the Minisink Compressor Station Project and the Hancock Compressor Station Project.

There is record evidence that the Commission was aware that Millennium had tangible plans to construct both the Minisink Project and the Hancock Project at the time the application for the Minisink Project was accepted, and that the Hancock Project relies on the completion of the Minisink Project in order to become hydraulically viable. These two facts necessitate that the Commission include both projects in a single NEPA document. Millennium's pre-filing submission to the Commission on April 20, 2012, for the Hancock Compressor Station indicates that Millennium "entered into precedent agreements following a binding open season initiated by Millennium in April 2011."[2] Millennium's Application for Certificate of Public Convenience and Necessity for the Minisink Compressor Station Project states that the open season was conducted during the same exact time period, April 1, 2011 through April 15, 2011.[3] Therefore, both projects were in the process of receiving bidding and being designed during April of 2011.

Furthermore, the Commission was well aware that Millennium was planning on constructing both projects within an overlapping time period. A PowerPoint presentation from October 12, 2011 was submitted to the Commission on the Minisink docket, which included a map that showed that Millennium was planning on constructing a compressor station in Minisink, and simultaneously constructing another compressor station downstream.[4] Therefore, not only was it always Millennium's intention that the two projects be designed and constructed

[2] *See* Request for Pre-filing Review, submittal no. 20120420-5185 (April 20, 2012), 1.
[3] *See* Application for Certification of Public Convenience and Necessity, submittal no. 20121101-5171 (November 11, 2012), 5.
[4] *See* More Expansion – Drip, Drip, Drip, submittal no. 20120113-5160 (January 13, 2012).

together, but the Commission was also aware of Millennium's plans even without having to conduct any sort of independent hydraulic analysis to confirm the connection of the projects. Furthermore, there is no evidence on the record that demonstrates that the Hancock Compressor Station, as designed, could operate without the previous construction and completion of the Minisink Project. In fact, the only record evidence suggests just the opposite, as Millennium admits that the modeling for the Hancock Project is "based on Millennium's existing facilities and the *assumption that the Minisink Station would be operational by the time the Project facilities are constructed*."(emphasis added)[5] Additionally, the alternatives analysis in the Environmental Assessment for the Minisink Project never mentions or evaluates whether adding compression at the Hancock location (or some similar location) is a viable alternative to Minisink Project, thus implying that the Hancock Project completely relies on the completion of the Minisink Project to be hydraulically feasible. Therefore, the Hancock Project is not only a reasonably foreseeable outcome, it is a necessary reality.

The Commission is left with the tenuous argument that building on previous projects is an inevitable reality of pipeline construction. However, such a progression of construction does not absolve the Commission from its responsibilities pursuant to NEPA, as it is indisputable that without utilizing the Minisink Project, the Hancock Project simply could not meet the contracted-for volume of gas. Furthermore, it is unclear whether or not, from an engineering perspective, the completion of the Minisink Compressor Project necessitated the completion of the Hancock Project in order for they system to safely operate. Millennium must provide detailed data demonstrating that the gas velocities, volumes, and operating pressures post Minisink Project completion require the completion of the Hancock Project, as nowhere in the EA is this issue addressed.

[5] *See* Environmental Assessment, submittal no. 20130228-4002 (February 28, 2013), 69.

Notwithstanding the fact that a single NEPA document is required to comprehensively evaluate the simultaneous impacts as a result of both of these projects, to the extent that the Environmental Assessment for the Hancock Compressor station evaluates those impacts, it is inadequate. The Commission dedicates a mere two paragraphs of a 96 page Environmental Assessment to evaluate the potential cumulative air impacts as a result of the completion of both projects. Furthermore, the Commission relies on its "dispersion modeling" to find that any overlapping impacts from the projects would be minimal and insignificant. However, the model used by the Commission appears nowhere in the record, and thus cannot be subjected to independent verification and review. The Commission must make the modeling it conducted available to the public.

In addition to reviewing the Minisink and Hancock Projects in a single NEPA document, the Commission must also evaluate the environmental impacts of replacing the Neversink segment of the Millennium pipeline. The Neversink segment of the Millennium line is a 7.5 mile portion of the pipeline that was constructed in 1987, and is the only portion of the pipeline that is composed of a different diameter pipeline than the rest of the line. This segment will likely need to be replaced when Millennium adds any additional volume of gas to its system, which it inevitably will. Millennium has admitted that later upgrading the system without replacing the Neversink segment would require "extensive pipeline replacement or looping to make up for the lower MAOP of the Neversink Segment."[6] Furthermore, Millennium has stated that the "[t]he Neversink Segment currently limits expansion of Millennium's system due to its smaller diameter and lower maximum allowable operating pressure (MAOP) which constrains the 30-inch-diameter system upstream of the Ramapo interconnect with Algonquin."[7] Therefore, by

[6] *See* Environmental Assessment, submittal no. 20120229-4003 (February 29, 2012), 40-41.
[7] *Id*. at 41.

proposing the completion of the Hancock and Minisink Projects, Millennium has essentially pre-determined that the Neversink segment will be need to be replaced when the system next takes on more volume.

In order to support its segmenting of analysis of these two projects, the Commission is ultimately reduced to relying on the argument that, because the two projects are designed to serve different customers, at slightly different points in time, they are not improperly segmented. However, taken to its logical conclusion, such an argument leads to absurd and arbitrary results. For example, the Commission's position suggests that if Millennium could find individual shippers interested in small volumes of gas that would necessitate small compressor upgrades or looping segments to be constructed along its existing pipeline, the Commission could individually certificate each and every one of those small simultaneous projects without considering the overall impacts of those projects in one NEPA document. Such results are fundamentally contrary to the purpose and design of NEPA.

II. Short-Term and Long-Term Impacts On Air Quality As A Result of the Hancock Project

The construction of the Hancock Compressor Station will adversely affect air quality during construction. The operation of the Station will also have a long-term impact on air quality. The construction will result in significant increases of nitrogen oxide, carbon monoxide, and greenhouse gas emissions.

a. Technical Comments

i. Aggregation

An accurate source determination is an absolute prerequisite to an adequate demonstration that sources are in compliance with the Clean Air Act's New Source Review (NSR), Prevention of Significant Deterioration (PSD) and the Title V Permit programs. The

provisions of NY DEC's NSR, PSD and Title V Permit program are approved by the United States Environmental Protection Agency (EPA) and incorporated in the State Implementation Plan ("SIP").

On September 22, 2009, Gina McCarthy, Assistant Administrator for the EPA's Office of Air and Radiation, issued a memo titled "Withdrawal of Source Determinations for Oil and Gas Industries" to Regional Administrators, which emphasized a fact-specific case-by-case approach for single source determinations. In making source determinations in the oil and gas industry, permitting authorities should rely foremost on the three regulatory criteria for identifying emissions activities that belong to the same "building," "structure," "facility," or "installation." The three regulatory criteria are: (1) whether the activities are under the control of the same person (or persons under common control); (2) whether the activities are located on one or more contiguous or adjacent properties; and (3) whether the activities belong to the same industrial grouping. 40 C.F.R. § 52.21.

The EA indicates that:

> Columbia, a subsidiary of NiSource (one of Millennium's owners), currently provides operations services to Millennium and would operate the Project facilities on an integrated basis with Millennium's existing facilities and in accordance with Columbia's own operating procedures. Columbia operates a 12,000-mile long natural gas pipeline network, which includes over 100 compressor stations with over 1,000,000 total hp.[8]

Each of these sites meets the common control and industrial grouping prongs for aggregation. Before determining what permits are required for the construction of the Project, or whether the Project is a major or minor, the "source" must be defined, and it must be determined whether any of these sites are "contiguous" or "adjacent" with the Hancock Compressor Station. The consideration of potential addition of compression at Millennium's existing Corning Compressor Station or its recently certificated Minisink Compressor Station as alternatives to the

[8] *See* Environmental Assessment, submittal no. 20130228-4002 (February 28, 2013), 12.

Hancock Compressor Station is strong evidence that the stations are interdependent and working together like any common plant and should be considered a single "source" for permitting purposes.

Neither Millennium nor the Commission performed an aggregation analysis; the Station is treated as an individual source without the prerequisite analysis. This oversight taints the entire air quality analysis associated with the Hancock Compressor Station Project.

ii. Methane Emissions

The Commission is using an improper global warming potential for methane. The Commission indicates that methane has a global warming potential (GWP) of 21.[9] The 1995 report from the Intergovernmental Panel on Climate Change (IPCC) reported methane GWP of 21 over an integrated 100 year timeframe. Despite subsequent revisions, this value and timeframe convention is still used by the U.S. EPA. The 2007 revision indicates that methane has a GWP of 25 over a 100 year timeframe and 72 over a 25 year timeframe.

It does not appear that Millennium included fugitive emissions and methane leaks in its greenhouse gas calculation.[10] Commenters request that Millennium confirm that all greenhouse gas emissions were properly accounted for including, but not limited to, the following:

> (e) For onshore natural gas transmission compression, report CO_2, CH_4, and N_2O emissions from the following sources:
>
> (1) Reciprocating compressor rod packing venting.
> (2) Centrifugal compressor venting.
> (3) Transmission storage tanks.
> (4) Blowdown vent stacks.
> (5) Natural gas pneumatic device venting.
> (6) [Reserved]
> (7) Equipment leaks from valves, connectors, open ended lines, pressure relief valves, and meters.[11]

[9] *See* Environmental Assessment, submittal no. 20130228-4002 (February 28, 2013), 44.
[10] *Id*. at 50.
[11] *See* 40 C.F.R. § 98.323(e).

Moreover, Millennium's statements or clarifications notwithstanding, commenters request that the Commission comply with its legal obligation to verify Millennium's assertions to provide accurate information in its NEPA document. The Commission may not reflexively rubber stamp information provided by Millennium. *Coliseum Square Ass'n, Inc. v. Jackson*, 465 F.3d 215, 236 (5th Cir. 2006).

Additionally, consideration was not given to the effect increasing natural gas transportation capacity will have on leaks throughout the system. EPA estimates that 0.9% of natural gas along transmission and distribution systems is leaked. Other studies indicate that 2.5% of the gas is leaked into the atmosphere.[12]

The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct. *Ctr. For Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217 (9th Cir. 2008). The Commission must consider the effect of increased throughput on the environment and climate.

b. Alternatives

The Commission must give full and meaningful consideration to all reasonable alternatives to the proposed action.[13] "By examining both the environmental impacts of the desired path and the impacts of other reasonable alternatives, NEPA enables an agency, and the public it serves, to evaluate whether the government has other options it could take that might be less damaging to the natural environment. *Soda Mountain Wilderness Council v. Norton*, 424 F. Supp. 2d 1241 (E.D. Cal 2006). The Commission reviewed and rejected the no-action alternative and four system alternatives including a looping or replacement, additional compression at

[12] *See* Hayoe K, Kheshgi HS, Jain HK, Wuebbles DJ (2002) Substitution of natural gas for coal: Climactic Effects of utility sector emissions. *Climactic Change* 54:107-39; *see also* Howarth et al (2011) Methane and the greenhouse gas footprint of natural gas from shale formations. Climactic Change Letters, doi: 10.1007/s10584-011-0061-5.
[13] *See* 42 U.S.C. § 102(C).

existing or proposed compressor station, combining those two options and electric compressor engines.[14]

Millennium seeks to increase compression capabilities. The means by which it will do so is through addition of compressor turbines. The Hancock Project's central environmental impact will result from the installation of these additional turbines and the air pollution associated with them. It is only logical that the discussion of alternatives would focus on the turbines and reducing the associated air pollution. Despite various available alternatives, beside a swift rejection of electric compressor engines, this discussion is missing from the EA.

It is clear that Millennium is working with the grid to receive the necessary electricity to operate the Station.[15] It is unclear why similar modifications cannot be made to ensure "sufficient capacity to ensure dual feed from the transmission and subtransmission systems" for operation of an electric compressor engine.[16]

Millennium and the Commission must also analyze utilization of Selective Catalytic Reduction ("SCR"). Millennium proposes to utilize SoLoNOx technology, which is a brand name for a Dry Low NOx Burner system. SCR could achieve an additional 35% of nitrogen oxide reduction. SCR is a nitrogen oxide reduction technology applicable to combustion turbines.

[14] *See* Environmental Assessment, submittal no. 20130228-4002 (February 28, 2013), 66-69.
[15] *Id*. at 5, 7.
[16] *Id*. at 69.

Selective catalytic reduction (SCR) is a NOx reduction technology applicable to combustion turbines. SCR is a post-combustion NOx control that utilizes a catalyst and a reducing agent to reduce the concentration of NOx in the exiting combustion gasses. The reagent, typically ammonia or urea, is injected into the exhaust stream of the combustion turbine. Once in the exhaust, the ammonia (or urea that decomposes to produce ammonia in the exhaust stream) passes over a catalyst to help convert the NOx, hydrocarbons, and CO into water, nitrogen and CO2. Catalyst selection is somewhat based on the expected temperature range of the combustion turbine exhaust, and is sized to achieve the desired amount of NOx reduction. The reagent injection system is comprised of a storage tank, reagent injector(s), a reagent pump, pressure regulator and electronic controls to accurately meter the quantity of reagent injected as a function of combustion turbine load, temperature and NOx emissions. Industry information indicates that the use of SCR for NOx control on combustion turbines may facilitate NOx reductions of 95% or more.

Combustion Turbine NOx Control Technology	Potential NOx Reduction
Water Injection	40%
Dry Low NOx Burners (DLNB)	60%
SCR	95%

[17]

Millennium and FERC must also consider the following EPA Natural Gas Star Recommended Practices and Technologies to reduce emissions.

Document Title	Capital Costs
Replace Gas Starters with Air or Nitrogen	< $1,000
Reduce Natural Gas Venting with Fewer Compressor Engine Startups and Improved Engine Ignition	< $1,000
Reducing Methane Emissions from Compressor Rod Packing Systems	< $1,000
Test and Repair Pressure Safety Valves	< $1,000
Reducing Emissions When Taking Compressors Off-Line	$1,000-$10,000
Eliminate Unnecessary Equipment and/or Systems	$1,000-$10,000
Install Automated Air/Fuel Ratio Controls	> $50,000

[17] *See* Ozone Transport Commission, Technical Information, Oil and Gas Sector, Significant Stationary Sources of NOx Emissions, Final (Oct. 17, 2012) *available at*: http://www.otcair.org/upload/Documents/Meeting%20Materials/Final%20Oil%20%20Gas%20Sector%20TSD%20 10-17-12.pdf.

Install Electric Motor Starters	$1,000-$10,000
Inject Blowdown Gas into Low Pressure Mains or Fuel Gas System	$1,000-$10,000
Replace Compressor Cylinder Unloaders	$10,000-$50,000
Install Electric Compressors	> $50,000
Replacing Wet Seals with Dry Seals in Centrifugal Compressors	> $50,000

[18]

c. Air Pollution and Public Health

The Commission must determine the degree to which the proposed action impacts public health. 40 CFR § 1508.27(b)(2). The proposed project will emit significant amounts of nitrogen oxides and carbon monoxide. However, the EA does not provide analysis of the impacts these emissions will have on public health.

Nitrogen dioxide irritates the lungs and lowers the body's resistance to respiratory infection such as influenza. Exposure to concentrations greater than those normally found in the ambient air may increase the incidence of acute respiratory disease in children. Nitrogen oxide is a precursor to ozone formation and acidic precipitation. The deposition of nitrogen oxide significantly contributes to adverse aquatic ecosystem effects caused by water pollution.
At relatively low concentrations in the air, carbon monoxide can impair visual perception, work capacity, manual dexterity, learning ability, and performance of complex tasks. Carbon monoxide also impairs heart function by weakening the contractions of the heart, thus reducing the blood supply to various parts of the body. The effect of this process on a healthy person is to

[18] *See* http://www.epa.gov/gasstar/tools/recommended.html.

reduce significantly the ability to perform exercise. However, in a person with heart disease it can be life threatening.

In accordance with federal regulations implementing NEPA, FERC must consider public health impacts associated with the Hancock Project prior to the issuance of a FONSI.

d. Cumulative Impacts

The Commission has failed to conduct a sufficient cumulative impacts analysis. The Commission indicates that "more geographically distant projects were not assessed because their impact would be localized."[19] However, the Commission fails to define the geographic scope or consider the downwind impacts which can have regional consequences. With respect to air pollution, the EA merely considers the cumulative impact of the Minisink Compressor Station along with the Hancock Compressor Station. This is grossly insufficient.

Cumulative impacts are defined as:

> [T]he impact on the environment which results from incremental impact of the action when added to other past, present, and reasonable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over time.[20]

The Commission must review the emissions occurring in the airshed and predict the effect on the air quality. "To 'consider' cumulative effects, some quantified or detailed information is required. Without such information, neither the courts not the public, in reviewing [agency] decisions, can be assured that [the agency] provided the hard look that is required…" *Cuddy Mountain v. U.S. Forest Service*, 137 F.3d 1372, 1379-80 (9th Cir. 1998).

The Hancock Project seeks to increase natural gas throughput of Millennium's existing downstream mainline, but the Commission arbitrarily fails to consider the impact that the

[19] *See* Environmental Assessment, submittal no. 20130228-4002 (February 28, 2013), 59.
[20] *See* 40 CFR § 1508.7.

additional upstream infrastructure will have on the environment or public health. The determination that "[n]atural gas production and hydraulic fracturing are not sufficiently causally related to the …Project to warrant NEPA analysis" is arbitrary and capricious.[21]

III. Conclusion.

The Hancock Compressor Environmental Assessment is flawed as proposed. The Commission must substantially revise the current insufficient EA and produce a single, adequate NEPA document that properly analyzes the extensive and egregious impacts the Hancock Compressor Project will have on public health, water resources, forest ecosystems, habitats, air quality, parks and open space. The NEPA document must properly evaluate project segmentation, alternative project proposals and sites, assess cumulative and secondary impacts, and address additional mitigation measures. To do so, the analysis must be thorough and objective.

Thank you for the opportunity to comment on the Environmental Assessment.

Respectfully submitted,

/s/ Maya K. van Rossum

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[21] *See* Environmental Assessment, submittal no. 20130228-4002 (February 28, 2013), 4.

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Exhibit A

August 10, 2012

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RE: Response to Notice of Intent to Prepare an Environmental Assessment for the Planned Hancock Compressor Project, and Request for Comments on Environmental Issues, Millennium Pipeline Company, Docket No. PF12-10.

Dear Ms. Bose and FERC Commissioners:

The Delaware Riverkeeper Network ("DRN") and the Clean Air Council ("CAC") collectively referred to as "commenters" have a number of concerns about the Millennium Pipeline Company's ("Millennium") proposed Hancock Compressor project ("Project") before the Federal Energy Regulatory Commission ("Commission"). Millennium is proposing to construct a compressor station and appurtenant facilities in Delaware County, New York, which will enable Millennium to provide an additional 107,500 dekatherms per day ("Dth/d") of incremental firm transportation service to an existing interconnect with Algonquin Gas Transmission, L.L.C. ("Algonquin") located in Ramapo, New York and meet the anticipated need for the additional delivery of 115,000 Dth/d from a new interconnect with Laser Northeast Gathering Company, L.L.C. ("Laser") to an existing interconnect with Columbia Gas Transmission, L.L.C. ("Columbia") at Wagoner.[1]

These comments begin by calling the Commission's attention to Millennium's insufficient and poorly reasoned alternatives analysis in Millennium's Resource Report 10. The comments next identify the need for a full discussion of the purpose and need for the Project. These comments then highlight the Commission's responsibility to comply with the National Environmental Policy Act by evaluating all of the secondary and cumulative impacts that will result from the Project, as well as segmentation issues. Finally, the comments focus on additional mitigation measures that must be evaluated before the Project is allowed to move forward.

I) <u>Millennium's Alternatives Analysis (Resource Report 10) is Poorly Reasoned, Insufficient, and Fails to Provide a Full and Balanced Analysis</u>

1) The Harms Associated with Natural Gas Extraction are Improperly Ignored

[1] *See* Resource Report 1 – General Project Description, Docket No. PF12-10, 1-1.

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Throughout its alternatives analysis in Resource Report 10, Millennium refers to what it characterizes as the environmental and economic benefits of using natural gas as an energy source, for both people as well as for businesses.[2] While Millennium promotes what it claims to be the economic and environmental benefits of using gas extracted from shale such as the Marcellus, nowhere in the Resource Report does Millennium discuss or even acknowledge the harms that result from the use and extraction of this resource. If Millennium wants to take advantage of the "benefits" it asserts shale gas extraction and use provide, then it must also accept full responsibility in this analysis for the harms the extraction and use of shale gas causes. As such, the alternatives analysis is sorely lacking from the absence of this discussion.

This point is highlighted by the fact that Millennium dismisses the nuclear alternative because of pollution, safety, and security impacts; and yet fails to recognize that shale gas extraction has a high levels of pollution, safety, and security concerns that approach, if not exceed, those concerns related to nuclear power.[3] Millennium should not, and cannot, be allowed to have it both ways, to benefit from their claimed positives of the shale gas industry but not be burdened by the known and documented environmental and community harms.

Harms related to shale gas drilling are as numerous as they are varied. Emissions from the shale drilling and transportation process include volatile organic compounds ("VOCs"), nitrogen oxide ("NOx"), sulfur dioxide, formaldehyde, and numerous other hazardous air pollutants. These pollutants are linked to increased rates of asthma, cancer, and cardiovascular problems. Drinking water contamination can result from the subsurface migration of methane via natural conductive faults and fractures, well casing failures, abandoned wells, seismically induced well integrity breaches, and improperly plugged wells. Landscape level effects of deforestation and increased stormwater runoff, erosion, and sedimentation will also exacerbate surface water degradation. Furthermore, natural gas well pad and infrastructure development also results in forest fragmentation, losses to riparian vegetation, habitat loss, climate change, and stream geomorphology effects. All of the aforementioned harms occur without even considering the problems posed by accidents and permit violations. The way in which this project will either directly, or indirectly, result in these detrimental environmental impacts must be considered together by FERC before approving this project.

2) Viable Alternative Options are Not Fully or Adequately Considered

In the alternatives analysis, energy conservation is dismissed as not being able to fulfill expected future demand. However, the analysis fails to consider the combined benefits of conservation with investment in sustainable energy options. Supporting and expanding the use of fossil fuels by continuing to expand the infrastructure and drilling needed to gather and deliver it to market displaces and undermines efforts and investment in conservation and sustainable energy. The alternatives analysis does not assess the combined benefits of energy conservation and sustainable energy sources, and the ramifications of drilling and the building of pipelines and compressors on investment in these other viable options that are vital for a safe and healthy future.

[2] *See* Resource Report 10 – Alternatives, Docket No. PF12-10, 10.2.
[3] *Id*. at 10.2.2.

Additionally, the cursory dismissal of alternative energy sources such as solar and wind because natural gas is used for space heating and cooking is improper, as it is well established that solar panels and geothermal energy can sufficiently support heating and cooking needs. All sources of energy require time, investment, and infrastructure. As a nation it is important we are investing the time, money and infrastructure in the energy sources that will benefit our communities by providing them the energy they need while also preserving their health, safety, and environment. Additionally, it is imperative that these energy sources serve us permanently into the future, unlike shale gas, which will at some point in the not so distant future become exhausted. The assertion articulated in the alternatives analysis that other fossil fuels would be encouraged if this compressor were not built fails to examine the other viable options of sustainable energy fulfilling that energy need.

3) The Energy Master Plans Cited in Resource Report 10 are Outdated and Mischaracterized

The energy master plans that Resource Report 10 discusses are outdated information; they were crafted and released before much of the science documenting the pollution and public health and environmental harms of gas drilling and pipelines were developed. As such, they present a false picture of support for the shale gas and/or natural gas industry and the need for expanding pipeline infrastructure. Furthermore, to the extent that the energy master plans are relevant, pursuant to their identification of the need to develop sustainable energy sources and infrastructure, Millennium spends no time reflecting on the ramifications of its proposal for preventing the full achievement these goals.

Millennium attempts to assert that natural gas, including that extracted from shales using drilling and fracking, is the "cleanest burning fossil fuel." Similarly, Millennium asserts in Resource Report 10 that its plan supports the New Jersey energy master plan calling for the delivery of "clean electricity" rather than facilitating the transmission of pollution coal-fired power. However, this presents a false picture of the polluting footprint of gas, as it ignores the emissions of all stages of gas production. A number of recently published data sets and studies on the subject have concluded that when the lifecycle emissions of natural gas are taken into account it increases, rather than decreases global warming.[4] According to data provided by the U.S. Environmental Protection Agency and analyzed by Dr. Robert Howarth,[5] natural gas systems are the "single largest source of anthropogenic methane emissions in the United States."[6] Natural gas is mostly made up of methane, which is 21 times more potent a greenhouse gas than carbon dioxide and therefore will have a significant impact on climate change in the most critical approaching decades. Reducing methane emissions is critical for protecting the safety of our ecosystems and human communities, including our young people and those still to be born, from the harmful effects of climate change. We cannot reduce our overall contribution to methane emissions and climate change if we are facilitating the release of those emissions through shale gas extraction and delivery activities. Experts say .07% to up to 10% of the methane produced

[4] Tom M.L. Wigley, *Coal to gas: the influence of methane leakage*, *Climactic Change* (2011). *See also* J. David Hughes, "Lifecycle Greenhouse Gas Emissions from Shale Compared to Coal: An Analysis of Two Conflicting Studies," Post Carbon Institute (July 2011) *available at:* http://www.postcarbon.org/reports/PCI-Hughes-NETL-Cornell-Comparison.pdf; Paulina Jaramillo et al., *Comparative Life-Cycle Air Emissions of Coal, Domestic Natural Gas, LNG, and SNG for Electricity Generation*, 41 Envtl. Sci. Tech. 6292 (2007).
[5] *See* Robert Howard, *Methane Emissions from Natural Gas Systems, Background Paper Prepared for the National Climate Assessment*, Reference number 2011-0003, Dated February 25, 2012.
[6] *Id*.

over the life cycle of a natural gas well is lost during the storage and transmission phase of the gas. Increasing the compression of the Millennium line will increase the amount of gas that passes through that pipeline, and therefore, will be directly increasing the volume of methane emissions that are contributing to global climate change.

Simply put, when factoring the fuels life-cycle, shale gas is highly polluting, it is not a "clean" energy source. The so-called clean-burning flame at the time of combustion does not negate the tremendous air, water, methane, noise, stormwater and other pollution that are the inevitable byproducts of this harmful process. Serving the New Jersey goal of clean electricity would mean investment in solar, geothermal, and appropriately placed wind infrastructure – not the extraction and delivery of shale gas.

4) The Analysis for the Siting Alternatives for the Project is Insufficient

The site chosen by Millennium for this Project embodies the most environmentally disruptive and damaging site among those identified in Resource Report 10. The site itself is not a rational choice based on the characteristics identified in Table 10.5-1 of the Alternatives Resource Report 10. Of the seven alternatives, the proposed site is the closest to Noise Sensitive Areas, requires the most water body crossings, impacts the highest number of wetland acreage, and is tied for highest percentage of steep slopes. Furthermore, the preferred site is in the top three for highest percentage of erodible soils, and is also ranked third for the highest percentage of shallow bedrock that may require blasting or other special construction techniques.

By comparison, site F is inexplicably rejected, where there is a willing seller, there is pasture so the land clearing and work will have less runoff and habitat harms, the site is farther away from the noise sensitive areas than the chosen site, the site includes slopes of only 0 to 8% as compared to the 8 to 20% at the chosen site, requires clearing of 0 acres of trees as compared to the 4.1 acres of the chosen site, impacts 0.02 acres of wetlands as compared to the 0.4 acres of the chosen site, requires crossing 1 natural waterway as compared to 2 with the chosen site, has 0 acres of highly erodible soils as compared to 3.1 acres at the chosen site, and has 0 acres of shallow bedrock where blasting might be require as compared to 3.1 acres at the chosen site. If Millennium so easily dismisses this obvious option, it calls into question how accurately, thoroughly, and seriously it vetted and considered the alternative sites. As such, the Commission should require Millennium to reanalyze the alternative options for the Project.

Furthermore, Millennium's failure to select a site where there is a willing buyer and significantly less environmental harm seems to be driven purely by short term cost savings and convenience. Upon information and belief, the 10-acre parcel selected as the preferred site is already owned by Millennium, primarily as the result of bad acts in the past where Millennium polluted the drinking water of the previous owner and as a result had to purchase the property to make amends. As such, the existing ownership of Millennium should not be allowed to trump an option that is clearly viable and less harmful to the environment.

Commenters are not advocating the selection of site F, but from the preliminary information provided it is clear that additional information and analysis is needed; and furthermore, that the decisions offered by Millennium must be viewed with skepticism and an independent eye. With the information provided, it is clear that the "no action alternative" (i.e. no compressor), is far superior to any of the construction options provided.

5) The Alternative Project Proposal Descriptions do not Provide Sufficient Detail to Allow for a Fair and Accurate Assessment of the Preferred Proposal

In section 10.3.1.1 of Resource Report 10 Millennium indicates that a looping or replacement project would require over 61 miles of new pipeline in order to achieve the same amount of increased capacity as this one compressor station. However, no further information or analysis is provided detailing how such a figure was determined. Tennessee Gas and Pipeline's MPP Project achieved over 240,000 Dth/d (over 20,000 more than this Project will), while only adding 7.9 miles of looping pipeline. This fact clearly demonstrates that Millennium has not fully evaluated the possible alternatives for this Project. More information specifically detailing the alternative proposals should be provided to the Commission (including such data as new pipeline diameter possibilities, pipeline pressure specifications, etc.).

Additionally, Resource Report 1 states that "[t]he increase of pipeline gas pressure will be accomplished through the installation of a 15,900 ISO rated horsepower natural gas turbine driven centrifugal compressor." These compressor stations substantially contribute greenhouse gas emissions to the surrounding environment, and degrade local and regional air quality. Nowhere in either of the Resource Reports is there any discussion of the installment of an electric driven compressor turbine, which would have a significantly lower impact on air quality, while accomplishing the same goals. Many such compressor stations are built in areas where air quality is a concern; however, no such analysis appears here.

This analysis is important as compressor stations not only emit greenhouse gases, but a number of other pollutants, including VOCs, NOx, particulates, and hazardous air pollutants. VOCs and NOx react in the air and sunlight to produce ground-level ozone. Ground-level ozone is particularly dangerous for children, the elderly, and people with preexisting health issues. Ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. This pollutant has been linked with a variety of respiratory problems including aggravation of asthma, bronchitis & emphysema and increased susceptibility to pneumonia & bronchitis. Ozone emissions can contain fine particles and carcinogens associated with cancer, stroke and premature death.[7] The Environmental Protection Agency (EPA) estimates that about 36,000 years of life are lost among people over age 65 in the U.S. from exposure to ozone.[8] VOCs are known and suspected carcinogens and have been linked with devastating neurological and developmental issues, brain damage, liver and kidney damage as well as skin, eye, nose and throat irritation[9] Formaldehyde, for example, causes skin, eye, nose and throat irritation and cancer.[10] In addition, natural gas in the Marcellus Shale has one of the highest concentrations of cancer-causing naturally occurring radioactive materials as compared to other types of shale deposits.[11] The U.S. Department of Health and Human Services, the International Agency for

[7] American Lung Association, "Health Effects of Ozone and Particle Pollution," *State of the Air, 2011*; President's Cancer Panel, *Reducing Environmental Cancer Risk: What We Can Do Now, 2008-2009 Annual Report* (National Cancer Institute, May 2010).
[8] Fann, N., Lamson, A., Anenberg, S., Wesson, K., Risley, D. & Hubbell, B. (2012). *Estimating the National Public Health Burden Associated with Exposure to Ambient PM2.5 and Ozone*. Risk Assessment, 32(1).
[9] Agency for Toxic Substances and Disease Registry, U.S. Department of Health and Human Services. Retrieved from: http://www.atsdr.cdc.gov/
[10] Agency for Toxic Substances and Disease Registry, U.S. Department of Health and Human Services. Retrieved from: http://www.atsdr.cdc.gov/
[11] Marvin Resnikoff, Ph.D., Ekaterina Alexandrova, Jackie Travers. May 19, 2010. Radioactivity in Marcellus Shale. Radioactive Waste Management

Research on Cancer, and the Environmental Protection Agency all consider radon to be a human carcinogen.

Without an in-depth evaluation on the benefits of this type of compressor turbine, the alternatives analysis is insufficient for providing a fair and accurate assessment of Project alternatives.

II) Millennium Failed to Provide a Full and Accurate Discussion of the Purpose and Need for the Project

1) "Anticipated Need" is not an Adequate Justification for the Proposed Project

The Commission's Policy Statement on the Certification of New Interstate Natural Gas Pipeline Facilities ("Policy Statement") sets forth criteria for determining whether there is a need for a project and whether that project will serve the public interest, i.e., the Natural Gas Act Section 7 PCN standard.[12] The Commission balances public benefits of a proposed project against potential adverse consequences. One of the primary factors that is considered by the Commission is the "possibility of overbuilding."[13] The commission has noted that it "does not allow the overbuilding of capacity so that customers are not paying for facilities that are not being used and to minimize impacts on landowners and communities for facilities that are not needed."[14] Furthermore, as noted by the Northeast Gas Association ("NGA") itself, in its May 2012 Issue Brief on Pipeline Expansion Projects, "natural gas pipeline companies do not design or build pipeline projects based on the assumption that there will be a future market for transportation. Capital investment by pipelines must be supported by revenue certainty through firm service agreements."[15]

However, in Millennium's Resource Report 1, section 1.1.1 ("Purpose and Need"), Millennium states that "[t]he Project will also meet the anticipated need for the additional delivery of 115,000 Dth/d from a new interconnect with the Laser Gathering System to an existing interconnect with Columbia Gas Transmission, L.L.C. (Columbia) at Wagoner." Allowing Millennium to rely on such tenuous benefits as "anticipated need" for its Project not only runs afoul of the Commission's own policy position against overbuilding, but also fundamentally undermines the cost benefit analysis that the Commission must undertake in evaluating the need of the Project. As such, the Commission must require Millennium to provide a more accurate representation of the need of the Project.

2) Sustainable Energy Sources are not Evaluated With Sufficient Detail

The need for the Project has not been properly established. The Millennium asserts that construction of this compressor, and increasing the volume of gas the Millennium Pipeline delivers, will allow "consumers greater choice …. and … encourage greater competition in fuel

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Associates.http://energy.wilkes.edu/PDFFiles/Library/Marcellus%20Shale%20Radioactivity%20Report%205-18-2010.pdf.

[12] 88 FERC ¶ 61, 227 (1999); order clarifying Statement of Policy, 90 FERC ¶ 61,128 (2000); order further clarifying Statement of Policy, 92 FERC ¶ 61,094 (2000).

[13] *Id*.

[14] *See* Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,750.

[15] *See* Northeast Gas Association, NGA Issue Brief: Pipeline Expansion Projects, May 2012, at http://www.northeastgas.org/index.php/component/content/article/255.

markets." However, the opposite is true. While delivering more gas to market will allow consumers to use more natural gas, coupled with the current tax incentives for fossil fuels over renewable energy, it will likely depress and prevent investment in and demand for renewable energy sources such as solar, wind, and geothermal that have no negative impact on public health.. A discussion is required that specifically quantifies the demand for natural gas, and relates that analysis to the way in which it will impact sustainable energy markets.

3) Domestic and Global Demand and Supply of Natural Gas is not Properly Evaluated and Considered

Millennium asserts that its proposed Project supports the New York energy master plan of bringing "excess" fossil fuel energy from the western part of the state. However, this premise is based upon a failed understanding of contemporary global energy markets. Currently, there is so much gas available domestically that the industry is eagerly pursuing plants and projects to ship this gas overseas; for example, there are currently roughly 13 applications before the Department of Energy for the construction of Liquefied Natural Gas Export facilities, which would liquefy domestic natural gas and sell it to the highest bidder overseas.[16] If these LNG applications are approved, this will result in the "excess" gas not being available in U.S. markets thus driving up the price of natural gas in the U.S., and undermining an essential justification for the instant Project. A more thorough evaluation of natural gas prices, availability, and global market demand needs to be performed before infrastructure upgrade projects, such as this one, proceed. This is particularly relevant here where a significant part of the justification for the Project is based upon "anticipated" need.

Millennium also asserts it is creating a benefit in that it is reducing dependence on foreign sources of energy by transporting shale gas, and thereby supporting and inducing drilling and gas extraction. This argument too is a red herring. There is a glut of domestically produced natural gas, so much so that the natural gas industry is working hard to export the gas to foreign markets; therefore, the gas will not displace "foreign sources of energy." Furthermore, the result of overseas exportation of domestic natural gas will be a significant increase in the price of natural gas to the American consumer.

III) <u>The Commission Must Fully Comply with the National Environmental Policy Act, and Must Thoroughly Assess All of the Potential Impacts Identified in the Notice of Intent</u>

1) Cumulative and Secondary Impacts Must be Fully Considered by the Commission

The Commission's environmental assessment must adequately consider the cumulative impacts of this compressor proposal. Cumulative impacts are defined as:

> impact[s] on the environment which result[] from the incremental impact of the action *when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes*

[16] North American LNG Import/Export Terminals, available at http://ferc.gov/industries/gas/indus-act/lng/LNG-proposed-potential.pdf.

> *such other actions*. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.[17]

The Council on Environmental Quality ("CEQ") has emphasized that cumulative effects analysis includes a "[f]ocus on truly meaningful effects" of "past, present, and future actions" as well as "all federal, nonfederal, and private actions."[18]

CEQ has made clear that "[t]he statutory clause 'major Federal actions significantly affecting the quality of the human environment' is to be construed by agencies with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated)."[19] Whether a project "significantly" affects the quality of the human environment[20] depends on "considerations of both context and intensity."[21] Intensity refers to "the severity of impact" and requires consideration of factors including "[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts."[22] "Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts."[23]

The requirement to consider cumulative impacts applies to EAs.[24] In fact,

> The importance of analyzing cumulative impacts in EAs is apparent … consider[ing] the number of EAs that are prepared. The Council on Environmental Quality noted . . . that "in a typical year, 45,000 EAs are prepared compared to 450 EISs . . . . Given that so many more EAs are prepared than EISs, *adequate consideration of cumulative effects requires that EAs address them fully*."[25]

Cumulative impacts caused by "reasonably foreseeable" future actions are cognizable under NEPA.[26] Moreover, the Commission must consider the cumulative effects of actions similar to

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[17] 40 C.F.R. § 1508.7 (2010) (emphasis added).
[18] Council on Envtl. Quality, Considering Cumulative Effects Under the National Environmental Policy Act 11 (1997), *available at* http://ceq.hss.doe.gov/nepa/ccenepa/sec2.pdf.
[19] Statements on Proposed Federal Actions Affecting the Environment, 35 Fed. Reg. 7,390, 7,391 (May 12, 1970).
[20] 42 U.S.C. § 4332 (C) (2006).
[21] 40 C.F.R. § 1508.27 (2010).
[22] 40 C.F.R. § 1508.27(b)(7) (2010).
[23] *Id*.
[24] *See* Kern v. U.S. Bureau of Land Mgmt., 284 F.3d 1062, 1076 (9th Cir. 2002); Soc'y Hill Towers Owners' Ass'n v. Rendell, 210 F.3d 168, 180 (3d Cir. 2000).
[25] *Kern*, 284 F.3d at 1076 (quoting Council on Envtl. Quality, *supra* note 50, at 4) (emphasis in original).
[26] *See* 40 C.F.R. § 1508.7 (2010); Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208,

1214-15 (9th Cir. 1998).

the proposed action, whether existing or reasonably foreseeable.[27] In other words, the Commission is required to consider the impacts of the Project (deforestation, forest fragmentation, sedimentation and erosion, wetland and water body degradation etc…) in the context of existing and reasonably foreseeable Marcellus Shale and other shale development, which includes but is not limited to the hundreds of miles of new gathering and transportation pipelines as well as the upgrade and expansion infrastructure projects that will be constructed to move the gas from the thousands of wells that have been drilled, or will be drilled, to market.[28] In addition, the Project will undoubtedly increase air pollutant emissions in Hancock – the Commission must aggregate and evaluate all the other existing and proposed projects that also are affecting or will affect the air quality of this region.

Furthermore, in Resource Report 1, Millennium states that over half the increased capacity for the Project is based on the "anticipated need" of a potential shipper. To the extent that "anticipated need" is considered by the Commission as a viable justification for the proposed Project, which it is not, the Commission must also then evaluate the cumulative effects and likely environmental harms that will result from such induced development, as required under NEPA.

2) FERC Must Insure that Millennium is not Improperly Segmenting its Projects

The Commission may not approve a segmented project; this unlawful practice is known variously as fragmenting, piecemealing, and, more commonly, segmentation.[29] Federal agencies must consider whether proposed actions are connected, cumulative, or similar.[30] If an agency finds proposed actions to be connected, cumulative, or similar, then the agency has the discretion to consider actions in a single or separate impact analyses.[31] Courts have interpreted both NEPA, as well as these rules, to require that connected, cumulative, or similar actions should be treated together unless the agency provides a non-arbitrary reason for analyzing the actions separately.[32]

"Cumulative actions" are those that, when viewed with other proposed actions, have "cumulatively significant impacts."[33] The regulations define "cumulative impact" (though not

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[27] *See, e.g.*, Nat'l Audubon Soc'y v. Dep't of Navy, 422 F.3d 174, 196-97 (4th Cir. 2005).

[28] *See also Nat. Res. Def. Council. v. Hodel*, 865 F.2d 288, 298 (D.C. Cir. 1988) (determining that the cumulative impact assessment of an Outer Continental Shelf ("OCS") oil and gas leasing activity must consider the cumulative impacts of "simultaneous OCS development in different areas" without requiring that such other OCS development be *caused* by the proposed leasing activity).

[29] *See Taxpayers Watchdog v. Stanley*, 819 F.2d 294, 298 (D.C. Cir. 1987) ("'Piecemealing' or 'Segmentation' allows an agency to avoid the NEPA requirement that an EIS be prepared for all major federal actions with significant environmental impacts by dividing an overall plan into component parts, each involving action with less significant environmental effects."); *Susquehanna Valley Alliance v. Three Mile Island Nuclear Reactor*, 619 F.2d 231, 240 (3d Cir. 1980) ("Segmentation of a large or cumulative project into smaller components in order to avoid designating the project a major federal action has been held to be unlawful." (citing *City of Rochester v. U.S. Postal Serv.*, 541 F.2d 967, 972 (2d Cir. 1976)); *see also* 40 C.F.R. § 1508.27(b)(7).

[30] 40 C.F.R. § 1508.25(a)(1)-(3).

[31] *See id.* (explaining that connected, cumulative, or similar actions "*should* be discussed in the same impact statement" (emphasis added)).

[32] *See, e.g. Klamath–Siskiyou Wildlands Ctr. v. Bureau of land Mangement*, 387 F.3d 989, 998 (citing 40 C.F.R. § 1502.4(a)).

[33] 40 CFR § 1508.25(a)(2).

"cumulatively significant impact") as: "the impact on the environment which results from the incremental impact of the action when added to other past, present, and *reasonably foreseeable future actions*."[34] "Connected actions" are closely related actions that: 1) "Automatically trigger other actions which may require environmental impact statements," 2) "Cannot or will not proceed unless other actions are taken previously or simultaneously," or 3) "Are interdependent parts of a larger action and depend on the larger action for their justification."[35] Under NEPA regulations, "similar actions" may be analyzed together, when the:

> [s]imilar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.[36]

Project proponents and federal agencies may not evade their responsibilities under NEPA by "artificially dividing a major federal action into smaller components, each without a 'significant' impact." *Coalition on Sensible Transportation v. Dole*, 826 F. 2d 60, 68 (D.C. Cir. 1987); *see also* 40 C.F.R. § 1508.27(b)(7). The general rule is that segmentation should be "avoided in order to insure that interrelated projects, the overall effect of which is environmentally significant, not be fractionalized into smaller, less significant actions." *Town of Huntington v. Marsh*, 859 F.2d 1134, 1142 (2d Cir. 1988), *see also Stewart Park and Reserve Coalition, Inc. (SPARC) v. Slater*, 352 F.3d 545, 559 (2d Cir. 2003). Without this rule, developers and agencies could "unreasonably restrict the scope of environmental review." *Fund for Animals v. Clark*, 27 F. Supp. 2d (D.D.C. 1998). In other words, agencies could divide a project into proposals that are: (1) small enough to warrant a Finding of No Significant Impact (FONSI), thus allowing the proponent to entirely avoid preparation of a full EIS; or (2) significant enough to require an EIS, but lacking the necessary information for a complete, comprehensive review of environmental impacts.[37] *See Foundation of Economic Trends v. Heckler,* 756 F.2d 143, 159 (D.C. Cir. 1985); *Coalition on Sensible Transportation v. Do*le, 826 F.2d 60, 68 (D.C. Cir. 1987).

Whereas federal courts have not yet addressed the precise question of whether and when the Commission may lawfully segment its consideration of pipeline construction projects, courts have developed general rules for analyzing segmentation cases. Courts look to determine whether the proposed project has "independent utility" in concert with other case specific factors, including, but not limited to: whether the project was conceived as an integrated whole, the economic interdependence of the projects, the foreseeability of subsequent projects, the common timing of the projects, and the geographic proximity of the projects.[38] Challenged segmented actions have included dams and reservoirs,[39] dredge and fill permitting,[40] importation of spent

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[34] 40 C.F.R. § 1508.7 (emphasis added).
[35] 40 C.F.R. § 1508.25(a)(1)(i)-(iii).
[36] 40 C.F.R. § 1508.25(a)(3).
[37] *Fund for Animals* (1998) also – "Importantly, an agency may not segment actions to unreasonably restrict the scope of the environmental review process. *See Foundation of Economic Trends v. Heckler,* 756 F.2d 143, 159 (D.C. Cir. 1985)." *See also Coalition on Sensible Transportation v. Dole*, 826 F.2d 60, 68 (D.C. Cir. 1987)
[38] *See infra*, notes 35-39.
[39] *See, e.g.*, Trout Unlimited v. Morton, 509 F.2d 1276 (9th Cir. 1974).
[40] *See, e.g.*, Town of Huntington v. Marsh, 859 F.2d 1134 (2d Cir. 1988).

fuel rods,[41] land exchanges for private development,[42] military housing,[43] pipelines,[44] railroad lines,[45] salmon preservation,[46] and water rights.[47]

The Commission must fully evaluate whether Millennium is segmenting its compressor station projects. On July 17, 2012, the Commission approved Millennium's Minisink Compressor station, a project that will enable Millennium to increase firm deliveries to its interconnection with Algonquin Gas Transmission, LLC at Ramapo, New York to approximately 675,000 Dth/day.[48] Resource Report 1 for the Minisink project indicates that the project will boost "the pressure of the natural gas up to the current maximum allowable operating pressure (MAOP) of 1,200 pounds per square inch gauge (psig)."[49] In Resource Report 1 for the Hancock compressor station, Millennium makes a *word for word* identical statement. It is clear that Millennium is attempting to increase the capacity of its existing pipeline by boosting the pressure to the maximum allowable limit all across its entire pipeline. As such, it is improperly segmenting its projects. It is incumbent upon FERC to consider the applications in one environmental analysis even if the applicant submits separate applications to the agency. This is a burden for which FERC is responsible, regardless of the way in which the applicant represents the projects before the agency.

Furthermore, the expected lifetime of these projects outreach the length of their associated shipping contracts (10 years), and therefore Millennium cannot appropriately claim that the projects are completely independent of each other; rather, each project will inevitably act in concert to increase the capacity of the entire Millennium pipeline. To further verify whether Millenium's compressor and pipeline projects are truly independent, the Commission should require Millennium to disclose the operating pressure (existing, proposed, and anticipated) along its entire line. Lastly, there also seems to be an expectation, known and foreseeable, of additional pipeline capacity through the expansion or replacement of the line itself, as referred to by Environmental Protection Agency in its letter comments on the Minisink Compressor proposal. Failure to consider these known, anticipated, and foreseeable elements of this expansion Project is a clear violation of the prohibition against segmentation. We request that FERC performs environmental impact analysis based upon the currently projected equipment, as well as the "worst case scenario" for the possible number of gathering line compressor stations that may later be attached to this project. Since Millennium would be required by law to allow other compressor stations and pipelines to hook into this line, it is very probable that there could be a lot more pollution sources than would currently be evaluated in the EIA.

IV) <u>Additional Mitigation is Available and Should be Required by the Commission</u>

1) A Number of Construction Techniques and Best Practices are Available to Millennium to Reduce the Environmental Harm of the Project that are not Considered in the Proposal

[41] *See, e.g., South Carolina ex rel. Campbell v. O'Leary*, 64 F.3d 892 (4th Cir. 1995).
[42] *See, e.g., Citizens' Comm. to Save Our Canyons v. U.S. Forest Serv*., 297 F.3d 1012 (10th Cir. 2002).
[43] *See, e.g., Hudson River Sloop Clearwater, Inc. v. Dep't of Navy*, 836 F.2d 760 (2d Cir. 1988).
[44] *See, e.g., Wilderness Workshop v. U.S. Bureau of Land Mgmt*., 531 F.3d 1220 (10th Cir. 2008).
[45] *See, e.g., Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294 (D.C. Cir. 1987).
[46] *See, e.g., Nw. Res. Info. Ctr., Inc. v. Nat'l Marine Fisheries Serv*., 56 F.3d 1060 (9th Cir. 1995).
[47] *See, e.g., Churchill Cnty. v. Norton*, 276 F.3d 1060 (9th Cir. 2001).
[48] *See* Order Issuing Certificate, 140 FERC ¶ 61,045, Docket No. CP11-515 (July 17 2012).
[49] *See* Resource Report 1 – General Project Description, Docket No. CP11-515.

If this compressor is ultimately built, there are ways to further avoid and mitigate harms. Millennium should ensure that 300-foot forested buffers are maintained on all waterways, including streams, ponds, wetlands, vernal pools, etc. If such buffers do not currently exist on the site, Millennium should be required to install them to minimize and mitigate the runoff and pollution issues its site development will necessarily create. The buildings constructed should have vegetated rooftops or solar panels to contribute back truly sustainable energy to the grid. The parking lot proposed should be made with porous pavement and be underlain by an infiltration basin for preventing pollution and runoff and helping to ensure aquifer recharge.

Millennium says that to engage in waste heat recovery is not "economically justified" and yet provides no detail for the public or FERC to assess this assertion. If the goal is to ensure the maximum amount of energy from reduced polluting resources, then reclaiming any energy that can also be made by this compressor station and site should be considered a best practice requirement; that it will cost Millennium extra money to accomplish this goal is not a valid reason to avoid doing so. Specifically, we request that FERC requires Millennium to participate in the EPA Natural Gas Star Program in order to cut their emissions through leakages and blowdowns. This voluntary program "encourages natural gas companies to adopt cost-effective technologies and practices that improve efficiency and reduce emissions of methane" and VOCs. [50] Many of the technologies have a return on investment of under 5 years, so the investment in clean technologies would save the company money over time and is of incredible value to the communityFailure to capture it means that an existing domestic energy source would be lost.

V) Conclusion

The Hancock Compressor proposal is flawed as assessed, written, and proposed. The Commission must require a full Environmental Impact Statement that analyzes the extensive and egregious impacts the Hancock compressor Project would have on public health, water resources, forest ecosystems, habitats, air quality, parks and open space. The NEPA document must propose adequately scoped alternative Project proposals and sites, assess cumulative and secondary impacts, evaluate Project segmentation, and address additional mitigation measures. To do so, the analysis must be thorough and objective.

Thank you for the opportunity to comment on the scope of the assessment. We look forward to full participation in this important process.

Respectfully Submitted,

Dated: August 10, 2012

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[50] Environmental Protection Agency Natural Gas Star Program. Retrieved from http://www.epa.gov/gasstar/

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