



## **Urgent** – Submitted Via Fax, Email and First Class Mail

January 31, 2013

Carol Collier, Executive Director  
DRBC  
25 State Police Drive  
P.O. Box 7360  
West Trenton, NJ 08628-0360

Fax No. 609 883 9522

Email: [carol.collier@drbc.state.nj.us](mailto:carol.collier@drbc.state.nj.us)

Dear Ms. Collier,

I thank you for your communication dated January 30, 2013 in which you inform me that the DRBC will be subjecting the Tennessee Gas Pipeline 300 Line Extension Project and the Columbia 1278 Replacement Project to DRBC docket review. DRBC has reversed its previous position regarding DRBC review of these projects on the basis that portions of each pass through areas incorporated into the Commission's Comprehensive Plan (i.e. the Delaware State Forest).

While we plan a more full and substantive response to your communication, as well as participating fully in the public process the docket review will provide, I wanted to immediately alert you to the fact that the Tennessee Gas Pipeline Company's Northeast Upgrade Project (TGP NEUP) also passes through areas incorporated into the Commission's Comprehensive Plan and therefore should also be, by your own analysis, subject to DRBC docket requirements and review.

The TGP NEUP passes through portions of the Delaware State Forest in Pennsylvania, as well as High Point State Park and Stokes State Forest in New Jersey. Pursuant to Resolution No. 91-19 adopted October 23, 1991 High Point State Park located in Sussex County, NJ and Stokes State Forest also in Sussex County, NJ are incorporated into the Commission's Comprehensive Plan. Pursuant to Resolution No. 2000-22 Adopted November 15, 2000 Delaware State Forest is incorporated into the Commission's Comprehensive Plan.

DELAWARE RIVERKEEPER NETWORK  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (215) 369-1188  
fax: (215) 369-1181  
[drm@delawareriverkeeper.org](mailto:drm@delawareriverkeeper.org)  
[www.delawareriverkeeper.org](http://www.delawareriverkeeper.org)

Therefore the TGP NEUP must be subject to Commission review in accordance with Section 3.8 of the Delaware River Basin Compact and Article 3 of the Rules of Practice and Procedure.

While we believe, as per our previous communications on the matter, that there are other reasons why the TGP NEUP should be subject to DRBC review, it seems clear from your January 30, 2013 letter and accompanying memo that you too are now in concurrence with the need for DRBC review and docket because of the project's incursion into multiple areas incorporated into the Commission's Comprehensive Plan. The water withdrawal docket previously considered and issued does not and did not address the impacts to Comprehensive Plan areas as contemplated by DRBC Rules of Practice and Procedure and so does not displace the need for a docket to address the multiple incursions into Comprehensive Plan areas. That docket only considered the water withdrawal and hydrostatic testing requests/requirements of the project and so was too limited in scope to be said to fulfill the DRBC's obligation to review the project pursuant to Rules of Practice and Procedure section 2.3.5.A.12.

Because the implementation of the TGP NEUP within our watershed is imminent, I ask you to immediately alert TGP that **before** it can proceed it must come to the DRBC for review and a docket because of the incursions into areas incorporated into the Commission's Comprehensive Plan.

Respectfully,



Maya K. van Rossum  
the Delaware Riverkeeper

Attached:

- January 30, 2013 letter and accompanying memorandum from Carol Collier, Executive Director of the DRBC, to Maya K. van Rossum, the Delaware Riverkeeper.
- Resolution No. 91-19 and appropriate pages regarding High Point State Park and Stokes State Forest
- Resolution No. 2000-22 and appropriate Page regarding Delaware State Forest

A RESOLUTION to revise the Comprehensive Plan of the Delaware River Basin Commission with respect to recreation areas in the State of New Jersey included therein.

WHEREAS, on March 28, 1962, the Delaware River Basin Commission adopted a Comprehensive Plan, Phase I by Resolution No. 62-4; and

WHEREAS, Resolution No. 62-4 and the Comprehensive Plan were subsequently amended on July 25, 1962 to include Addendum #1 entitled Delaware River Basin Commission, Comprehensive Plan, Phase I, Section VII – Pre-Existing Projects, which includes among others a list entitled Non-Urban Recreation Areas; and

WHEREAS, the list of Non-Urban Recreation Areas is inaccurate and does not reflect current conditions and desires of the signatory parties with respect to recreation areas to be included in the Commission's Comprehensive Plan; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. All references to New Jersey State and County Areas and Commercial Developments included on the 1962 list of New Jersey Non-Urban Recreation Areas are hereby deleted from the Comprehensive Plan and are replaced by the attached lists of New Jersey water-related recreation facilities. Location maps for each facility are on file.
2. Recreation facilities included on the attached list which has been included previously in the Comprehensive Plan by separate DRBC action are subject to any conditions or restrictions specified therein, and this listing shall not serve to replace or alter any of those respective Docket decisions.

/s/ Alan J. Farling  
Alan J. Farling, Chairman pro tem

/s/ Susan M. Weisman  
Susan M. Weisman, Secretary

ADOPTED: October 23, 1991

## A. STATE PARKS - NJDEP DIVISION OF PARKS AND FORESTRY

COUNTY Town	Park	Permanent Associated Water Body(ies)	Facility Water-Related Uses	Map References USGS Quads
=====				
BURLINGTON COUNTY	Hawk Island	Delaware River	None	Beverly
Mount Holly	Rancocas	Rancocas Creek (North & South Branches)	Small Boat Launch, Natural Area Area	Bristol and Mt. Holly
HUNTERDON COUNTY	Finesville, River Access Site	Delaware River	River Canoe Access, Fishing	Riegelsville
MERCER COUNTY (Includes Hunterdon, Middlesex, & Somerset Cos.) Belle Mead (Hdqtr in Somerset Co.)	Delaware/Raritan Canal Park (within Delaware River Basin)	Delaware River, Harihohake Creek, Copper Creek, Wickecheoke Creek, Lockatong Creek, Alexauken Creek, Skipetaukin Creek, Little Shabakunk Creek, Moores Creek, Fiddlers Creek, Jacobs Creek, Gold Run, Duck Creek, Assunpink Creek	Fishing, Small Boat Launch Canal Trails	Frenchtown, Lumberville, Stockton, Lambertville, Pennington, Trenton West, Trenton East, Princeton
Titusville	Washington Crossing	Delaware River, Steele's Run	Scenic, Fishing	Lambertville, Pennington
SALEM COUNTY				
Salem	Fort Mott	The Moat, Delaware River	Fishing, Scenic	Delaware City
Elmer	Parvin	Muddy Run, Thunderquest Lake, Parvin Lake	Fishing, Swimming, Small Boat Launch Canoe	Elmer, Bridgeton
SUSSEX COUNTY				
Hackettstown	Allamuchy	Allamuchy Pond, Deer Park Pond, Musconetcong Rvr, Jefferson Lake, Cranberry Lake	Fishing, Natural Area	Tranquility, Stanhope
Hackettstown	Cranberry Lake	Allamuchy Pond, Deer Park Pond, Musconetcong Rvr, Jefferson Lake Cranberry Lake	Fishing, Natural Area	Tranquility, Stanhope
Landing	Hopatcong	Lake Hopatcong	Fishing, Swimming, Small Boat Launch	Stanhope
	Musconetcong	Lake Musconetcong	Fishing, Swimming, Small Boat Launch	Stanhope
Newton	Swartswood	Swartswood Lake, Little Swartswood Lake, Spring Lake, Duck Pond	Fishing, Swimming, Small Boat Launch	Newton West
Sussex	High Point	Lake Marcia, Steenkill Lake, Sawmill Lake, Big Flat Brook	Fishing, Swimming, Small Boat Launch	Port Jervis South, Branchville

## B. STATE FORESTS - NJDEPE DIVISION OF PARKS AND FORESTRY

COUNTY Town	Forest	Permanent Associated Water Body(ies)	Facility Water-Related Uses	Map References USGS Quads
BURLINGTON COUNTY New Lisbon	Lebanon	McDonalds Branch, Copper Branch, Pole Bridge Branch, Mt. Misery Branch, Pakin Pond, Whitesbogs	Swimming, Natural Areas	Browns Mills, Whiting, Chatsworth, Woodmancie
CAPE MAY COUNTY Woodbine	Belleplain	E. Creek Pong, Lake Mummy, Savages Run, Dennis Creek	Fishing, Swimming, Small Boat Launch	Port Elizabeth, Tuckerhoe Heiserville, Woodbine
SUSSEX COUNTY Branchville	Stokes	Tillman's Ravine, Big Flatbrook, Lake Shawnni, Stony Lake, Lake Ocquittunk, Lake Wapalanne	Fishing, Swimming, Small Boat Launch, Natural Area	Culvers Gap, Branchville
WARREN COUNTY Columbia	Worthington	Delaware River, Dunnfield Creek, Sunfish Pond	Fishing, Small Boat Launch, Natural Area	Bushkill, Flatbrook, Portland

## C. MISCELLANEOUS AREA/MARINAS - NJDEPE DIVISION OF PARKS AND FORESTRY

COUNTY Town	Area/Marina	Permanent Associated Water Body(ies)	Facility Water-Related Uses	Map References USGS Quads
CUMBERLAND COUNTY Portescue	Portescue Marina	Portescue Creek	Boat Ramp, Charter Fishing	Portescue
WARREN COUNTY	Dildine Island Access Site	Delaware River	River Access	Belvidere

NO. 2000-22

A RESOLUTION to revise the Comprehensive Plan of the Delaware River Basin Commission with respect to recreation areas in the Commonwealth of Pennsylvania.

WHEREAS, on March 28, 1962, the Delaware River Basin Commission (Commission) adopted a Comprehensive Plan, Phase I by Resolution No. 62-4; and

WHEREAS, Resolution No. 62-4 and the Comprehensive Plan subsequently were amended on July 25, 1962 to include Addendum #1, entitled "Comprehensive Plan, Phase 1, Section VII – Pre-Existing Projects," which includes among other things a list entitled "Non-Urban Recreation Areas," and

WHEREAS, the list of Non-Urban Recreation Areas is inaccurate and does not reflect current conditions and the desires of the signatory parties with respect to inclusion of recreation areas in the Commission's Comprehensive Plan; and

WHEREAS, pursuant to Resolution Nos. 91-19 and 92-1, updated lists of recreation areas in New Jersey and Delaware respectively were included in the Comprehensive Plan; and

WHEREAS, the Commonwealth of Pennsylvania desires to update the Comprehensive Plan with respect to recreation areas within the Delaware River Basin; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. All Pennsylvania recreation areas included in the 1962 list of Non-Urban Recreation Areas are hereby deleted from the Comprehensive Plan and are replaced by the Pennsylvania State Parks and Forests presented on the attached lists.
2. Recreation areas included on the attached lists that previously have been included in the Comprehensive Plan by separate Commission action shall continue to be subject to any conditions or restrictions specified therein, and this action shall not serve to replace or alter any of those respective docket decisions.

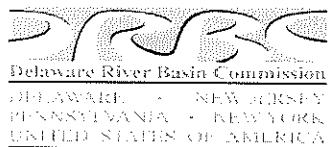
/s/ Harry W. Otto  
Harry W. Otto, Chairman pro tem

/s/ Pamela M. Bush  
Pamela M. Bush, Commission Secretary

ADOPTED: November 15, 2000

**STATE FORESTS - PA DCNR BUREAU OF FORESTRY**

<b>County/Town</b>	<b>State Forest</b>	<b>Permanent Associated Water Body(ies)</b>	<b>Facility Water-Related Uses</b>	<b>Map Reference U.S.G.S. Quad</b>
<b>Pike and Monroe Counties Numerous Townships.</b>	Delaware	Numerous as shown on map	Water Acreage	Numerous in Wayne and Pike Counties
<b>Lackawanna County Lehigh Township</b>	Lackawanna	Butler Run Sand Spring Creek Spring Run	Water Acreage	Thornhurst Pleasant View Summit
<b>Schuylkill County</b>	Weiser	Stoney Creek	Water Acreage	North Manheim South Manheim



**Delaware River Basin Commission**

25 State Police Drive

PO Box 7360

West Trenton, New Jersey

08628-0360

Phone: (609) 883-9500 Fax: (609) 883-9522

Web Site: <http://www.drbc.net>

**Carol R. Collier**

Executive Director

**Robert Tudor**

Deputy Executive Director

January 30, 2013

*Via Email and Facsimile*

Maya K. van Rossum  
The Delaware Riverkeeper  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, Pennsylvania 19007

**SUBJECT: Amended Letter Determination Regarding Tennessee Gas Pipeline 300 Line Extension Project and Columbia 1278 Replacement Project**

Dear Ms. van Rossum:

At the Commission's meeting of December 5, 2012, the Commissioners responded in two parts to DRN's request for hearing in connection with my letter to you of July 10, 2012 concerning natural gas pipeline projects:

1. The Commissioners declined as moot DRN's request for hearing with respect to the Tennessee Gas Pipeline ("TGP") Company's Northeast Upgrade Project ("NEUP"), on grounds that the Commission issued Docket D-2011-22-1 for the project on July 11, 2012. The Commission's docket approval superseded my earlier determination and entailed the very review that DRN requested. DRN did not challenge the docket approval.
2. The Commission chair explained that staff had undertaken a thorough re-examination of the review criteria for the two other pipeline projects discussed by name in my letter of July 10, 2012 – the Columbia 1278 Replacement Project and the TGP 300 Line. The Commissioners asked me to examine the additional information furnished by staff and authorized me to revise the determinations set forth in my July 2012 letter on the basis of that information, if appropriate, by January 31, 2013.

In accordance with the Commissioners' direction, I have examined the additional information furnished by my staff (summarized in the attached memo), showing that both the Columbia 1278 Replacement Project and the TGP 300 Line pass through Delaware State Forest in Pennsylvania. Because this state forest is a recreation area that has been incorporated into the Commission's Comprehensive Plan, review of the projects, both of which have been constructed,



was properly triggered under section 2.3.5 A.12 of the Commission's Rules of Practice and Procedure. The status of Delaware State Forest as a recreation area included in the Comprehensive Plan ("CP") was not recognized during our original screening of the two projects. The accompanying staff memorandum sets forth the staff's subsequent analysis and conclusions in detail. It also explains that to ensure an oversight of this nature does not occur again, the Project Review Section is putting in place a checklist process that includes review of the complete list of CP recreation areas when determining whether pipeline and powerline projects traversing the Basin require a docket.

In light of the staff's revised findings, the conclusions set forth in my letter of July 10, 2012 concerning the Columbia 1278 Replacement Project and the TGP 300 Line are hereby amended. Both projects are subject to Commission review in accordance with Section 3.8 of the Delaware River Basin Compact and Article 3 of the Rules of Practice and Procedure. Accordingly, I am directing my staff to undertake reviews of these projects after the fact. The project sponsors will be so informed and will be directed to submit applications that include the projects' as-built characteristics. Commission review will not interrupt operation of the projects, but will involve consideration of any additional conditions that may be necessary to ensure the projects do not impair or conflict with the Comprehensive Plan. As is the case with all Section 3.8 reviews, the process will entail in each instance the development of a draft docket, followed by a duly noticed public hearing, and Commission consideration and action at a public meeting.


Sincerely,

A handwritten signature in black ink that reads "Carol R. Collier". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Carol R. Collier  
Executive Director

c: DRBC Commissioners

## MEMORANDUM

TO: Carol R. Collier, Executive Director  
FR:  William Muszynski, Manager, Water Management Branch  
DA: January 30, 2013  
RE: Reviewability of Columbia 1278 Replacement Project and TGP 300 Line

### Introduction and Findings

This is to memorialize the November 2012 reevaluation conducted by Water Resource Management Branch staff of the Commission's criteria for review of projects in accordance with Section 3.8 of the Delaware River Basin Compact, as applied to two natural gas pipeline projects – the Columbia 1278 Replacement Project and the Tennessee Gas Pipeline Company ("TGP" or "Tennessee") 300 Line Project. Our reevaluation was undertaken in response to a request for hearing in accordance with Article 6 of the *Rules of Practice and Procedure* ("RPP") on my staff's conclusion, set forth in your letter to Maya von Rossum, Delaware Riverkeeper, of July 10, 2012, that neither of the two projects required a docket.

As discussed in greater detail below, we are amending our original findings. An aspect of both the TGP 300 Line and the Columbia 1278 Replacement Project that the staff overlooked in our initial evaluation – crossing of Delaware State Forest in Pennsylvania – triggers review under an exception to the exclusion for natural gas transmission line projects established by the *Rules of Practice and Procedure* (RPP). Specifically, Section 2.3.5 A.12. of the RPP in relevant part exempts from review all "natural and manufactured gas transmission lines and appurtenances ... *unless* they would pass in, on, under or across an existing or proposed reservoir or recreation project area as designated in the Comprehensive Plan ...." (Emphasis added). The status of Delaware State Forest as a recreation area included in the Comprehensive Plan ("CP") was not recognized in our original screening of the two projects.

To ensure that an oversight of this nature does not occur again, we are developing a checklist that will include a listing of the RPP requirements that pertain to pipeline and power line projects, including the complete list and map of CP recreation areas. This checklist will be used to assist the staff in determining whether pipeline and power line projects traversing the Basin require review and approval by the Commission.

The following discussion outlines our November 2012 reviewability screening of the Columbia 1278 Replacement Project and the TGP 300 Line Project in detail.

### Discussion

#### I. DRBC Review Criteria Potentially Applicable to Pipeline Projects

##### A. Rules of Practice and Procedure

Article 3 of the RPP governs the submission and review of projects under Section 3.8 of the Delaware River Basin Compact. Section 2.3.5A. of that article sets forth classifications of projects that are generally *excluded* from Section 3.8 review, whereas Section 2.3.5B. sets forth classifications that are generally subject to review *if not excluded by Section 2.3.5A.*

Sections 2.3.5A.2, 3, 5, 6, 11, 12 and 15 of Article 3 of the RPP are the exclusions potentially applicable to pipeline projects.

Section 2.3.5 A. provides:

- A. Except as the Executive Director may specially direct by notice to the project owner or sponsor, or as a state or federal agency may refer under paragraph C. of this section, a project in any of the following classifications will be deemed not to have a substantial effect on the water resources of the Basin and is not required to be submitted under Section 3.8 of the Compact:

\* \* \* \* \*

2. A withdrawal from ground water for any purpose when the daily average gross withdrawal during any 30 consecutive day period does not exceed 100,000 gallons;
3. A withdrawal from impoundments or running streams for any purpose when the daily average gross withdrawal during any 30 consecutive day period does not exceed 100,000 gallons;

\* \* \* \* \*

5. The construction of new facilities or alteration or addition to existing facilities for the direct discharge to surface or ground waters of industrial wastewater having design capacity of less than 10,000 gallons per day in the drainage area to Outstanding Basin Waters and Significant Resource Waters or less than 50,000 gallons per day elsewhere in the Basin; except where such wastewater contains toxic concentrations of waste materials;
6. A change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than three square miles;

\* \* \* \* \*

11. Liquid petroleum products pipelines and appurtenances designed to operate under pressures less than 150 psi; local electric distribution lines and appurtenances; local communication lines and appurtenances; local natural and manufactured gas distribution lines and appurtenances; local water distribution lines and appurtenances; and local sanitary sewer mains, unless such lines would involve significant disturbance of ground cover affecting water resources;
12. Electric transmission or bulk power system lines and appurtenances; major trunk communication lines and appurtenances; natural and manufactured gas transmission lines and appurtenances; major water transmission lines and appurtenances; unless they would pass in, on, under or across an existing or proposed reservoir or recreation project area as designated in the Comprehensive Plan; unless such lines would involve significant disturbance of ground cover affecting water resources;”

15. Draining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres; provided; however, that areas less than 25 acres shall be subject to Commission review and action (1) where neither a state nor a federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a state or federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the Basin. In the case of a project affecting less than 25 acres for which there has been issued a state or federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the Chairman, may at any time within the 30-day period inform any permit holder, signatory party or other interested party that the Commission will decline to undertake review and action concerning any such project;

Section 2.3.5 B. provides that "All other projects which have or may have a substantial effect on the water resources of the Basin shall be submitted to the Commission in accordance with these regulations for determination as to whether the project impairs or conflicts with the Comprehensive Plan." Section 2.3.5 B. includes a list of examples of the types of projects deemed subject to the review by the Commission when not excluded from review by Section 2.3.5 A.

#### **B. May 19, 2009 Executive Director Determination**

The Executive Director Determination ("EDD") issued on May 19, 2009 concerned natural gas extraction projects in shale formations located in Special Protection Waters. The EDD removed all RPP thresholds for review of natural gas extraction projects. Such projects were defined to include the drilling pad upon which a well intended for eventual production is located, all appurtenant facilities and activities related thereto, and all locations of water withdrawals used or to be used to supply water to the projects. An "appurtenant facility" has since been determined to refer to a facility that is connected directly to the well or well pad and required for the extraction of natural gas.

## **II. Application of Criteria to Projects**

### **A. Columbia Gas Transmission, LLC Line 1278 to Line K Replacement Project FERC Docket Nos. PF10-6-000 and CP10-492-000**

According to Columbia, the Columbia 1278 Replacement Project would allow the company to update its aging pipeline facilities and increase the diameter of the existing pipeline from 14 inches to 20 inches to be consistent with the remainder of the Line 1278 system in Pennsylvania. Columbia is not seeking authorization to increase the transportation capacity within the Line 1278 to Line K system. The portion of the two existing pipelines immediately adjacent to the Delaware River crossing would remain as 10-inch-diameter pipelines, and no construction would occur within the river.

The proposed project includes:

- Abandonment either in-place, by removal, or by replacement of approximately 16.84 miles of 14" diameter natural gas pipeline with 20" diameter pipe
- Temporary workspaces and staging on four previously disturbed areas in Pike County, PA and three previously disturbed areas in Orange County, NY
- Removal of an existing compressor station
- Pipeline located in Pike County, PA and Orange County, NY
- Purchase of 1.292 million gallons of water from public water suppliers (Borough of Milford, PA and Port Jervis, NY) for hydrostatic testing of replaced pipeline sections.
- Discharge of hydrostatic test water to land in-basin, general permits required by states; no direct discharge to water bodies
- Maximum area of disturbance, including staging and storage, of 195.87 acres (0.31 square miles), of which about 103.46 acres (0.16 square miles) would be permanently disturbed
- 75-foot-wide construction right-of-way. In areas of steep and/or side slope construction, an additional 25 feet of temporary construction right-of-way is proposed over short distances to facilitate installation of the replacement pipeline. In all, the total construction right-of-way would be 100-feet-wide at specific areas to accommodate steep slopes, road crossings, and water bodies.
- Wetland crossings and workspaces, limited to a 75-foot-wide construction right-of-way. Columbia has requested additional temporary workspaces within 50 feet of certain specific wetlands, mainly due to topography or road crossings.
- Disturbance of 4.06 acres of wetlands, including 0.61 acres permanently impacted
- Existing project right of way passing through Delaware State Forest, a CP recreation area. No new permanent right-of-way or impacts proposed within Delaware State Forest
- Approximately 0.13 miles of pipeline replacement activities within the boundary of the Upper Delaware Scenic and Recreational River corridor
- E&S control measures to be reviewed by County Conservation Districts
- No proposed direct connections to natural gas extraction wells (thus not subject to EDD for natural gas extraction projects)

Permits required for the project are listed in the following table:

TABLE 3 Major Permits, Authorizations, and Clearances Required		
Agency	Permit/Approval/ Consultation	Status
<b>Federal</b>		
Federal Energy Regulatory Commission	Certificate of Public Convenience and Necessity	Application filed August 26, 2010
USACE, New York District	Section 404 Permit	Anticipated filing date: February 2011
USACE, Philadelphia District	Section 404 Permit	Anticipated filing date: February 2011
U.S. Fish and Wildlife Service, New York Field Office	Section 7 Consultation	Anticipated filing date: January 2011
U.S. Fish and Wildlife Service, Pennsylvania Field Office	Section 7 Consultation	No permit required; Consultation response received January 3, 2011.
National Oceanic and Atmospheric Administration	Section 7 Consultation	No permit required; Consultation response received 2/2/10. No further consultation required.
National Park Service	Upper Delaware Scenic and Recreational River	No permit required; Consultation response received September 30, 2010.

TABLE 3 Major Permits, Authorizations, and Clearances Required		
Agency	Permit/Approval/ Consultation	Status
<b>New York State</b>		
New York Natural Heritage Program Information Services and Region 3, NYSDEC	Consultation concerning protected and rare species	No permit required; Consultation response received December 15, 2009. Consultation is ongoing.
New York State Office of Parks, Recreation and Historic Preservation, Historic Preservation Field Service Bureau [New York State Historic Preservation Office (SHPO)]	Section 106 Consultation 9/3/2009; 11/23/2009; 2/19/2010 Phase I/II Report: 8/30/2010	No permit required; Consultation responses received 9/28/2009; 11/23/2009; 3/19/2010; and 9/20/2010.
Orange County Health Department	Public and Private Water Supply Consultation	No permit required; Consultation response received December 15, 2009. Consultation is ongoing.
City of Port Jervis, Department of Public Works	Public and Private Water Supply Consultation	No permit required; Consultation response received April 7, 2010.
NYSDEC, Region 3	State Environmental Quality Review	Anticipated filing date: January 2011
	Freshwater Wetland Permit	Anticipated filing date: January 2011
	Protection of Waters Permit	Anticipated filing date: January 2011
	Hydrostatic Test Water Discharge	Anticipated filing date: February 2011
	State Pollution Discharge Elimination System - Notice of Intent for Construction Activities	Permit received: October 28, 2010
	State Pollution Discharge Elimination System - Waiver to Disturb more than five acres	Waiver received: October 28, 2010
Town of Deerpark	Planning Commission Consultations	Consultation response received: September 28, 2010
Orange County	Planning Commission Consultation	Consultation response received: April 5, 2010
<b>Pennsylvania State</b>		
Pennsylvania Fish and Boat Commission (PFBC)	Consultation concerning state protected and rare species	Consultation response received December 21, 2009. Consultation ongoing.
Pennsylvania Game Commission	Consultation concerning state protected and rare species	Consultation response received. December 23, 2009. Consultation ongoing.
PADCNR	Consultation concerning state protected and rare species	Consultation response received: December 28, 2009. Consultation ongoing.
PADCNR, Bureau of Forestry, Forest District #19	Delaware State Forest right-of-way agreement	Anticipated filing date: January 2011
Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation	Section 106 Consultation	Consultation responses received 9/14/2009; 12/15/2009; 3/19/2010; and 9/21/2010
Pennsylvania Department of Environmental Protection, Northeast Regional Office	Joint Permit Application - Section 404/Chapter 105 Water Encroachment Permit	Anticipated filing date: January 2011
	PAG-10: Hydrostatic Testing of Tanks and Pipelines	Anticipated filing date: February 2011
Pike County Conservation District	Notice of Intent - Erosion and Sediment Control General Permit	Anticipated filing date: December 15, 2010

The following table compares Columbia 1278 Replacement Project features to potentially applicable review thresholds:

RPP § 2.3.5 A. Exclusion	Columbia Gas 1278 to K-Line Replacement
2. A withdrawal from ground water for any purpose when the daily average gross withdrawal during any 30 consecutive day period does not exceed 100,000 gallons;	*1.292 million gallons of water will be purchased from public water suppliers (Borough of Milford, PA and Port Jervis, NY) for hydrostatic testing of replaced pipeline sections.
3. A withdrawal from impoundments or running streams for any purpose when the daily average gross withdrawal during any 30 consecutive day period does not exceed 100,000 gallons;	*1.292 million gallons of water will be purchased from public water suppliers (Borough of Milford, PA and Port Jervis, NY) for hydrostatic testing of replaced pipeline sections.
5. The construction of new facilities or alteration or addition to existing facilities for the direct discharge to surface or ground waters of industrial wastewater having design capacity of less than 10,000 gallons per day in the drainage area to Outstanding Basin Waters and Significant Resource Waters or less than 50,000 gallons per day elsewhere in the Basin; except where such wastewater contains toxic concentrations of waste materials;	*Discharge to land in-basin, general permits required by PA and NY. Energy dissipation devices and E&S will be implemented. No direct discharge to water bodies or groundwater will occur.
6. A change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than three square miles;	*Maximum area disturbance including staging and storage = 195.87 acres of land (0.31 square miles), of which about 103.46 acres (0.16 square miles) would be permanently disturbed.
11. Liquid petroleum products pipelines and appurtenances designed to operate under pressures less than 150 psi; local electric distribution lines and appurtenances; local communication lines and appurtenances; local natural and manufactured gas distribution lines and appurtenances; local water distribution lines and appurtenances; and local sanitary sewer mains, unless such lines would involve significant disturbance of ground cover affecting water resources;	*Columbia 1278 to K-line is a natural gas transmission line. Threshold not applicable.
12. Electric transmission or bulk power system lines and appurtenances; major trunk communication lines and appurtenances; natural and manufactured gas transmission lines and appurtenances; major water transmission lines and appurtenances; unless they would pass in, on, under or across an existing or proposed reservoir or recreation project area as designated in the Comprehensive Plan; unless such lines would involve significant disturbance of ground cover affecting water resources;”	<p>*The existing project right of way passes through 1.45 miles of Delaware State Forest, a CP recreation area. No new permanent right-of-way or impacts would be created within Delaware State Forest as a result of the Project.</p> <p>*Approximately 0.13 miles of pipeline replacement activities would occur within the boundary of the Upper Delaware Scenic &amp; Recreational River corridor, a CP recreation area. Columbia must address any mitigation or avoidance measures recommended by the NPS. Written NPS approval required before commencement of project construction.</p> <p>*E&amp;S controls will be implemented to mitigate disturbance of ground cover.</p> <p><i>See discussion below relating to the “disturbance of ground cover” exception to the exclusion from review for natural gas pipelines.</i></p>

<b>RPP § 2.3.5 A. Exclusion</b>	<b>Columbia Gas 1278 to K-Line Replacement</b>
15. Draining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres; provided; however, that areas less than 25 acres shall be subject to Commission review and action (1) where neither a state nor a federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a state or federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the Basin. In the case of a project affecting less than 25 acres for which there has been issued a state or federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the Chairman, may at any time within the 30-day period inform any permit holder, signatory party or other interested party that the Commission will decline to undertake review and action concerning any such project;	*4.06 acres of wetlands are proposed to be impacted during construction, including 0.61 acres of wetlands to be impacted permanently.
<b>EDD Determination</b>	Not applicable – No proposed direct connections to natural gas extraction wells

DRN has argued that natural gas pipeline projects in general fall within the exception to the exclusion set forth at Section 2.3.5A.12 for projects that “involve a significant disturbance of ground cover affecting water resources”. In determining whether a “significant disturbance” would occur, the Project Review staff is guided by two other land disturbance thresholds established by section 2.3.5 A: those that, respectively, exclude from review projects involving “[a] change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than three square miles” (RPP § 2.3.5 A.6); and projects that involve “[d]raining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres” (RPP § 2.3.5 A.15). In our view, these thresholds indicate the general magnitude of disturbance that the Commission decided warrants basin-wide review. Neither project exceeds either of these thresholds. As the table of approvals above makes evident, localized water resource risks are ordinarily managed by other government agencies, including federal, state and local environmental agencies.

#### **B. Tennessee Gas Pipeline (TGP) 300 Line Upgrade Project FERC Docket No. CP09-444-000**

The proposed Tennessee Gas Pipeline 300 Line Upgrade Project will include construction of approximately 128.7 miles of 30-inch pipeline consisting of seven separate pipeline loops in northern Pennsylvania, totaling approximately 111 miles, and one pipeline loop in northwestern New Jersey totaling approximately 17.3 miles. To the extent practicable and feasible, Tennessee proposes to locate the pipeline loops within and adjacent to the right-of-way (“ROW”) associated with its existing 24-inch pipeline designated as the 300 Line. Additionally, the project includes construction of two new compressor stations near Tennessee’s existing 300 Line ROW in



northwestern Pennsylvania, as well improvements and modifications at seven existing compressor station facilities in Pennsylvania and New Jersey. Tennessee proposes to begin project construction in the second half of 2010 and to place the facilities in-service by November 2011.

The proposed project includes:

- ROW width of 100 feet, generally consisting of 25 feet of existing, permanently maintained ROW, 25 feet of new permanent ROW and 50 feet of temporary construction workspace
- Temporary workspace within wetlands, limited to 75 feet to minimize adverse impacts. Permanent ROW within wetlands also limited to 75 feet. A 10-foot wide area centered over the pipeline will be maintained in an herbaceous or scrub-shrub vegetative state.
- Pipeline through Pike and Wayne Counties, PA in DRB
- Within DRB, 22.28 miles of 30" outer diameter ("O.D.") natural gas transmission pipeline in Loop 321; and 14.89 miles of 30" O.D. natural gas transmission pipeline in Loop 323
- Maximum acreage disturbance including staging and storage = 548.61 acres of land in basin (0.86 square miles), of which about 108.03 acres in basin (0.17 square miles) would be retained as new permanent right-of-way.
- Temporary impact to 15.62 acres of wetlands in DRB during construction phased and permanent impact to 2.44 acres of wetlands
- Withdrawal of 2.14 mg of water for hydrostatic testing in DRB from Lackawaxen River, West Branch Lackawaxen River, Still Water Lake, Dyberry Creek, Lords Creek, Twin Lakes, Savantine Creek. Withdrawals will not exceed 100,000 gpd over a 30-day period.
- Hydrostatic testing discharge to land in-basin, under general permits required by states. No direct discharge to water bodies.
- Pipeline crosses 1.5 miles of Delaware State Forest a CP Recreation project.
- E&S control measures are incorporated into project to be reviewed by County Conservation Districts.
- Project sponsors do not propose to have direct connections to natural gas extraction wells. Therefore, it is not subject to the EDD for natural gas extraction projects.

Permits required for the project are listed in Table 1.6-1 of the TGP document entitled, *Environmental Report, 300 Line Project: Resource Report 1*, pp. 1-63 through 1-66.

The following table compares Tennessee Gas Pipeline 300 Line Project features to potentially applicable review thresholds:

RPP § 2.3.5 A. Exclusion	Tennessee Gas Pipeline Co. 300 Line
2. A withdrawal from ground water for any purpose when the daily average gross withdrawal during any 30 consecutive day period does not exceed 100,000 gallons;	*Threshold not applicable
3. A withdrawal from impoundments or running streams for any purpose when the daily average gross withdrawal during any 30 consecutive day period does not exceed 100,000 gallons;	*2.14 mg of water for hydrostatic testing in DRB will be withdrawn from Lackawaxen River, West Branch Lackawaxen River, Still Water Lake, Dyberry Creek, Lords Creek, Twin Lakes, Savantine Creek. Withdrawals will occur at less than 100,000 gpd over a 30-day period.
5. The construction of new facilities or alteration or addition to existing facilities for the direct discharge to surface or ground waters of industrial wastewater having design capacity of less than 10,000 gallons per day in the drainage area to Outstanding Basin Waters and Significant Resource Waters or less than 50,000 gallons per day elsewhere in the Basin; except where such wastewater contains toxic concentrations of waste materials;	*Discharge to land in-basin, general permits required by states. Energy dissipation devices and E&S will be implemented. No direct discharge to water bodies or groundwater will occur.
6. A change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than three square miles;	*Maximum acreage disturbance including staging and storage = 548.61 acres of land in basin (0.86 square miles), of which about 108.03 acres in basin (0.17 square miles) would be retained as new permanent right-of-way.
11. Liquid petroleum products pipelines and appurtenances designed to operate under pressures less than 150 psi; local electric distribution lines and appurtenances; local communication lines and appurtenances; local natural and manufactured gas distribution lines and appurtenances; local water distribution lines and appurtenances; and local sanitary sewer mains, unless such lines would involve significant disturbance of ground cover affecting water resources;	*TGP 300 Line is a natural gas transmission line. Threshold not applicable.
12. Electric transmission or bulk power system lines and appurtenances; major trunk communication lines and appurtenances; natural and manufactured gas transmission lines and appurtenances; major water transmission lines and appurtenances; unless they would pass in, on, under or across an existing or proposed reservoir or recreation project area as designated in the Comprehensive Plan; unless such lines would involve significant disturbance of ground cover affecting water resources;"	*300 Line crosses 1.5 miles of Delaware State Forest, a CP recreation area. E&S controls to mitigate disturbance of ground cover will be reviewed by County Conservation Districts.  <i>See the last paragraph of the previous section (relating to the Columbia 1278 Replacement Project) for discussion of the "significant disturbance of ground cover" exception to the exclusion from review for natural gas transmission lines.</i>

<b>RPP § 2.3.5 A. Exclusion</b>	<b>Tennessee Gas Pipeline Co. 300 Line</b>
<p>15. Draining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres; provided; however, that areas less than 25 acres shall be subject to Commission review and action (1) where neither a state nor a federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a state or federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the Basin. In the case of a project affecting less than 25 acres for which there has been issued a state or federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the Chairman, may at any time within the 30-day period inform any permit holder, signatory party or other interested party that the Commission will decline to undertake review and action concerning any such project;</p>	<p>*15.62 acres of wetlands in DRB are proposed to be temporarily impacted during construction of the TGP 300 Line project. 2.44 acres are to be impacted permanently.</p>
<b>EDD Determination</b>	Not applicable – No proposed direct connections to natural gas extraction wells

### III. Conclusions

The above analysis confirms that neither the Columbia 1278 Replacement Project nor the TGP 300 Line involves a water withdrawal, diversion or discharge that triggers Commission review. Nor in the view of staff does either project involve a level of ground cover disturbance that warrants our review, on the basis of land disturbance thresholds the Commission has expressly established for infiltration areas and wetlands. However, both projects trigger review on grounds that they traverse Delaware State Forest, a recreation area incorporated in the Commission's Comprehensive Plan.