



For Immediate Release

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Contacts:

Maya van Rossum, the Delaware Riverkeeper

215 369 1188 ext 102 (Office & Cell)

Aaron Stemplewicz, Staff Attorney for Delaware Riverkeeper Network

215 369 1188 ext 115

**Delaware River Basin Commission Postpones action on the
Proposed Southeast Leidy Pipeline and the Columbia 1278 Pipeline
in Response to Public Comment**

**Additionally,
Proposed Southeast Leidy Pipeline Faces Court Challenge;
Delaware Riverkeeper Network Files to Stop Tree Cutting**

Washington Crossing, PA, On March 11, 2015, at its quarterly meeting of the Commissioners, responding to comments delivered by the Delaware Riverkeeper Network and supported by members of the public at the March 10 public hearing on the subject, the Delaware River Basin Commission chose to table dockets for the Southeast Leidy Pipeline and the 1278 Columbia Pipeline that had been proposed for approval.

The Transco Southeast Leidy proposal put before the Delaware River Basin Commission (DRBC) for approval on March 11, 2015 was challenged in testimony offered by the Delaware Riverkeeper. Comments, testimony and documents were provided that demonstrated the project segment was part of a larger interstate transmission line upgrade by Transcontinental Pipeline Company (Transco), designed to add capacity to the existing Leidy line system, which is a 200 mile

pipeline that originates at the Leidy Hub in central Pennsylvania and terminates at an interconnect with Transco's Mainline in Mercer County, New Jersey.

“The Southeast Leidy Pipeline will inflict high level damage on forests, wetlands and streams within the boundaries of the Delaware River watershed and is clearly a segment of a larger project that should have been reviewed in its entirety, not piecemeal, by the DRBC. It is gratifying that the DRBC is beginning to recognize the high level of harm being inflicted on our communities by pipelines and to give them greater scrutiny,” said Maya van Rossum, the Delaware Riverkeeper. “The desire to give greater scrutiny to pipeline projects will be increasingly important as pipelines continue to proliferate in our region. It is going to be also important that DRBC apply the full breadth of its legal authority and that it look at cumulative impacts across pipelines individually and cumulatively as it considers them; so far DRBC has inappropriately limited its review to the use of water for hydrostatic testing,” van Rossum added.

Also set aside in response to comments submitted by the Delaware Riverkeeper Network and supported by members of the public, was reconsideration of the Columbia 1278 Replacement Project. The Columbia pipeline was constructed parallel to the Delaware River, and stretched across large sections of Pike County crossing many special protection waters. The Delaware Riverkeeper Network had requested in letter and via legal petition that this project be reviewed prior to its construction. The DRBC had denied such review, only after construction recognizing that it had a legal obligation to engage in review, thus resulting in the proposal of an after the fact docket. Public comments sought a higher level of mitigation be included in any docket approved in recognition of the high level of harm and the large number of violations inflicted during project construction and thereafter.

Additionally on the Southeast Leidy Pipeline project:

Washington, D.C., On March 10, 2015 the Delaware Riverkeeper Network (DRN) initiated a lawsuit under the All Writs Act against the Federal Energy Regulatory Commission (FERC) in the Court of Appeals for the D.C. Circuit challenging FERC's approval of Transcontinental's (Transco) Leidy Southeast Expansion Project, and requesting a stay of any construction activity.

“Approval of the Southeast Leidy Line is a clear violation of the federal court ruling the Delaware Riverkeeper Network secured July 2014 that instructed FERC to stop engaging in segmentation of pipeline projects, the breaking up of larger projects into smaller pieces for review and approval,” said Maya van Rossum, the Delaware Riverkeeper. “The fact that FERC is once again engaging in segmentation, that it is using a legal strategy designed to frustrate public efforts to secure judicial review of its decisions, and that it is providing approvals for tree cutting that allows the Southeast Leidy line to advance despite not having all state and federal permits is a clear demonstration of how committed to serving the pipeline companies,

rather than protecting the public or the law, FERC is” added van Rossum.

On March 9, 2015 FERC issued a Notice to Proceed to Transco to begin tree felling construction activity for the Project, however, the Project was not available for judicial review via traditional means under the Natural Gas Act because FERC had yet to rule on DRN’s administrative rehearing request. Therefore, while DRN waited for FERC to respond to its requests for a rehearing, and before DRN could file a petition with a court for review of the FERC approval under the Natural Gas Act, FERC authorized Transco to irreparably and irreversibly destroy over 140 forested areas adjacent to valuable streams and wetland resources damaging the ecological functions provided by those forested areas, such as erosion control, temperature regulation, flood control, and habitat provision. FERC’s issuance of the Notice to Proceed therefore forced DRN to file its lawsuit under the All Writs Act, arguing that by allowing construction activity to move forward while failing to rule on DRN’s rehearing request FERC constructively denied DRN’s rehearing request and contravened Congress’s intent to provide due process rights for aggrieved parties.

“The practice of indefinitely extending the FERC’s deadline to respond to a rehearing request such that it overlaps with the FERC’s issuance of Notices to Proceed with tree clearing has become common operating procedure for the agency having occurred no less than four times in the last couple of years. Such a blatant frustration of Congress’s intent to provide due process rights through the Natural Gas Act should not be tolerated. To the extent that there is palpable public discontent with the way FERC operates, this is a perfect example of why that is the case,” said Aaron Stemplewicz, staff attorney for the Delaware Riverkeeper Network.

DRN’s lawsuit seeks to build upon its victory in the D.C. Circuit in June of 2014 where it successfully argued that the FERC improperly segmented its environmental review of a series of pipeline projects being constructed by Tennessee Gas and Pipeline Company. There the court held that the Commission violated NEPA by: “(1) segmenting its environmental review of the Northeast Upgrade Project – i.e., failing to consider the Northeast Upgrade Project in conjunction with three other connected, contemporaneous, closely related, and interdependent Tennessee Gas pipeline projects – and (2) failing to provide a meaningful analysis of the cumulative impacts of these projects to show that the impacts would be insignificant.”

In the nine months since the D.C. Circuit first ruled against FERC in June of 2014, FERC has yet to take any public action on the Court ordered remand of the Tennessee Gas Pipeline.

In the instant matter, DRN argues that FERC has continued its practice of segmenting its environmental reviews of pipeline projects, including the Leidy Southeast Expansion Project.

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