



For Immediate Release

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Contact:

Maya K. van Rossum, the Delaware Riverkeeper, 215 369 1188 ext 102 (rings office and cell)

Preliminary Injunction Issued by Federal Court Against PA Environmental Hearing Board and Environmental Challenge to Pipeline Permits

Scranton, PA: Judge Mariani, a federal district judge in the Middle District of Pennsylvania, issued an order and memorandum opinion today granting Tennessee Gas Pipeline Company's request for a preliminary injunction to prevent the Pennsylvania Environmental Hearing Board (EHB) from reviewing challenges to three state permits that the Pennsylvania Department of Environmental Protection issued to the pipeline company's Northeast Upgrade Project. The Delaware Riverkeeper Network, the Delaware Riverkeeper Maya van Rossum, and the Responsible Drilling Alliance appealed these permits to the Environmental Hearing Board on the grounds that the permits did not comply with Pennsylvania statutory and regulatory requirements for controlling erosion and sedimentation and for avoiding and properly mitigating impacts to streams and wetlands.

In Pennsylvania alone, the Northeast Upgrade Project will cross 108 waterbodies (44 of which are classified as High Quality and 7 of which are classified as Exceptional Value), traverse 129 wetlands (23 of which are classified as Exceptional Value), involve horizontal direct drilling underneath both the Delaware and Susquehanna Rivers, and cut through 14 special protection watersheds. The state permits at issue are a Chapter 102 permit authorization under the Erosion and Sediment Control General Permit-1 and two Chapter 105 permits, also known as Water Obstruction and Encroachment Permits. Under Pennsylvania law, challenges to PADEP permits are reviewed by the Environmental Hearing Board. DRN et al. filed notices of appeal of these

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

permits to the EHB on December 18, 2012.

TGP filed suit on January 7, 2013, in federal district court for the Middle District of Pennsylvania naming not only the environmental appellants in the EHB action but also the EHB, and its five individual judges, as defendants. Secretary Michael Krancer of PADEP intervened as a defendant. Judge Mariani held oral argument on January 18, 2013. TGP argued that the Natural Gas Act, administered by the Federal Energy Regulatory Commission, entirely preempted the field of environmental regulation of pipeline projects, thereby prohibiting decisions by state agencies that might conflict with project approvals issued by FERC.

Judge Mariani's opinion found that these particular permits, because they also constituted the state's water quality certification under Section 401 of the federal Clean Water Act, would have to be appealed to the federal circuit court of appeals under the judicial review provisions Congress established under the Natural Gas Act (15 U.S.C. Sec. 717r(d)(1)). Importantly, Judge Mariani did ***not*** find that federal law preempts the state's ability to require pipeline project proponents to obtain and comply with such environmental permits.

Says Maya van Rossum, the Delaware Riverkeeper: "We are carefully reading and evaluating Judge Mariani's opinion to determine our next steps. It is certainly important that the court recognized that this was not a case about federal preemption of state environmental regulations. We believe that PADEP retains its full authority to require strict compliance with state standards for protecting our waters and wetlands from massive pipeline construction projects. Whether we are required to challenge PADEP permits for pipelines at the EHB or in federal court, we will continue to hold PADEP's feet to the fire to make sure that any and all permits issued do, in fact, strictly adhere to state standards. And to the extent we believe that DEP's program is not providing the level of protection our communities and environments need and deserve -- whether that is because of lax standards, lax interpretation, lax application, lax enforcement -- we will continue to work to address those issues as well."

Ralph Kisberg of Responsible Drilling Alliance states, " This is our second experience with a FERC project in which we see a process where the rights of property owners and communities are trampled upon by powerful pipeline companies with the assistance of the federal government. With the likelihood that the Commonwealth pipeline will eventually be forced down the throats of residents in multiple counties for over 120 miles, and with the Constitutional pipeline already doing the same in Susquehanna County and to our New York neighbors, we have to reason for some encouragement in the language of Judge Mariani's decision. That Secretary Krancer and the PA DEP have joined our side on this very specific issue in the fight is much appreciated. Perhaps the Corbett/Krancer DEP is

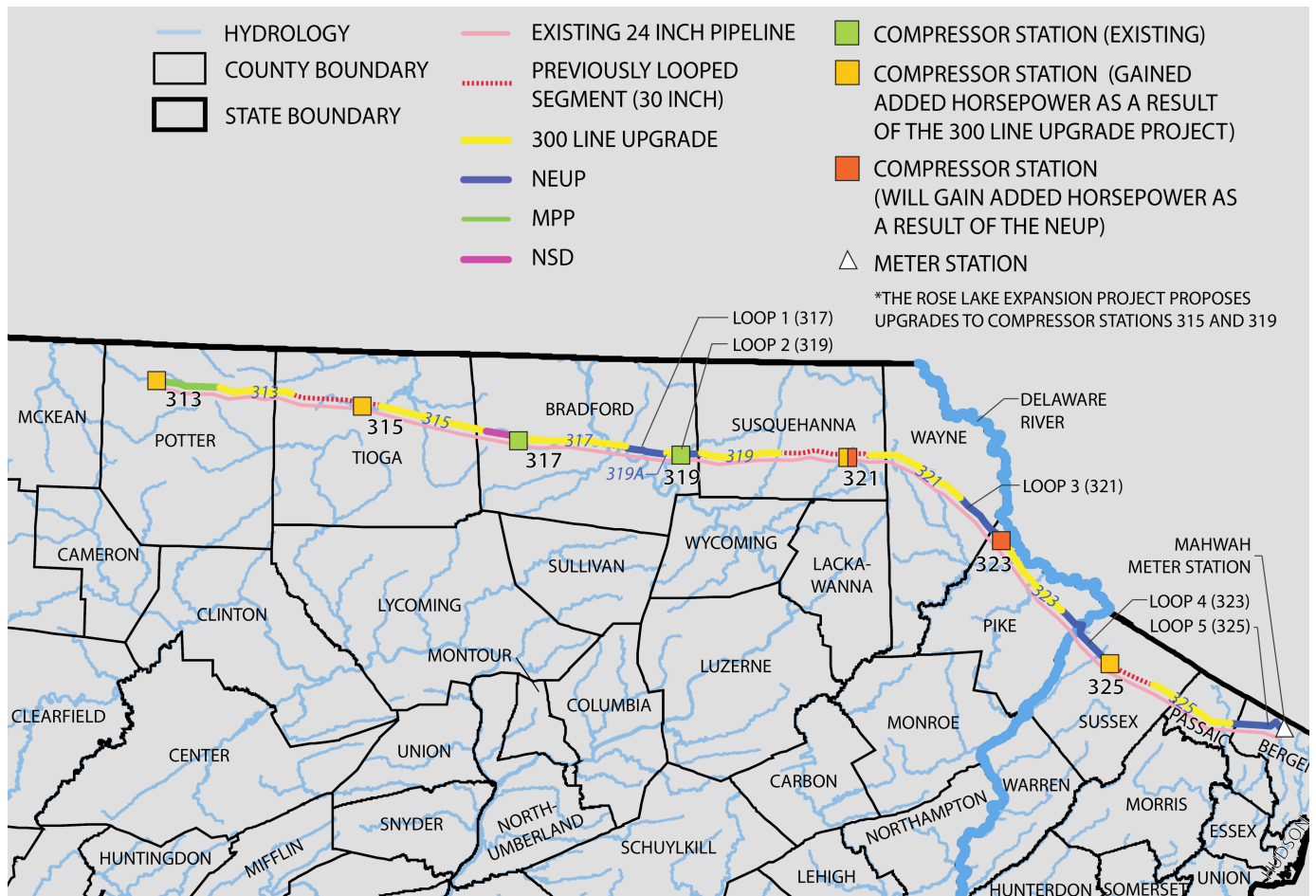
Page 2 of 4

learning that citizen groups more concerned with the rights of Pennsylvania residents than those of huge corporations do indeed bring a valuable perspective to the issues of shale resource development in the Commonwealth.”

Tennessee Gas Pipeline Company’s Northeast Upgrade Project (NEUP) is an interstate transmission line upgrade project. The NEUP is the final pipeline upgrade project in TGP’s multi-stage 300 Line upgrade project, although TGP has tried to disguise the interdependence of its 300 Line upgrade project components to avoid critical environmental regulation and oversight. Three of the loops that are part of the Northeast Upgrade Project are located within the Delaware River Basin (Loops 321, 323, and 325), spanning Wayne and Pike Counties in Pennsylvania and Sussex County in New Jersey. Highpoint State Park and Delaware State Forest are among the public lands that will be damaged by this project.

The Delaware Riverkeeper Network, NJ Highlands Coalition, and NJ Sierra Club are currently pursuing a petition for an Emergency Stay with the DC Circuit Court of Appeals, a federal court, to issue a stay of the Federal Energy Regulatory Commission’s Order and Certification issued on May 29, 2012 as well as its Notice to Proceed with Construction issued for the TGP NEUP on December 14, 2012. This parallel legal action, filed on January 25, 2013, applies to the entirety of the NEUP project. If the Petition for Stay is successful, TGP would be forced to put tree felling and construction on hold until the Court of Appeals completes its review of petitioners’ challenge to FERC’s Order and Certification under the Natural Gas Act and National Environmental Policy Act.

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SCALE: 1 INCH = 30 MILES

Pipeline and station data recreated from provided maps.
Meliora Design is not responsible for accuracy.

*Hydrology data varies by state.