

DRBC Commissioners
Executive Director Steven Tambini
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July 17, 2020

RE: Comments on PennEast's May, 2020 Application to the DRBC

Dear DRBC Commissioners, Staff, and Mr. Tambini,

We are a collection of grass roots organizations, individuals, and environmental groups located within the Delaware River Basin, representing together thousands of individuals deeply concerned about the impacts the proposed PennEast pipeline will have to water quality within the basin. We have reviewed PennEast's application to the DRBC in May, 2020, and found numerous errors, evasions, misrepresentations, and outright deceptions within its materials. For the following reasons, we ask that the DRBC reject PennEast's application with prejudice.

1) PennEast's project is not in the public benefit.

PennEast states that it is proposing “*new natural gas transmission pipeline to convey approximately 1.1 million dekatherms per day (MMDth/d) of natural gas produced in the Marcellus Shale production region in northern Pennsylvania to growing natural gas markets in New Jersey, eastern and southeastern Pennsylvania, and surrounding states*” and “*Phase 1 will extend between receipt points located in Dallas Township, Luzerne County, Pennsylvania, near Wilkes-Barre (milepost [MP] 0.0R1 and MP 0.3R3) to the Church Road Interconnects located in Bethlehem Township, Northampton County near Easton, Pennsylvania (MP 68.2R3)*”.¹

While PennEast states it will “*convey 1.1 million dekatherms per day*” to “*growing natural gas markets in New Jersey, eastern and Southern Pennsylvania, and surrounding states*”, this statement applies only to the original Certificated project on FERC docket CP15-558-00 and CP19-78-000. It does not apply to this project. Specifically, this application before the Commission is based on its new “Phase 1” project submitted to FERC on docket CP20-47-000. Nowhere in this application to the DRBC does PennEast indicate the purpose of the project. This project does not even touch New Jersey or “surrounding” states. In fact, according to a PennEast Answer on the FERC docket, this “Phase 1” pipeline is nearly 50% unsubscribed². As PennEast's Answer indicates, PennEast has only 338,000 dekatherms/day of subscribed capacity on Phase 1, which represents only 31% of the 1.1 million dekatherm/day number PennEast misleadingly used on page 1 of its DRBC application.

¹ PennEast Pipeline Company, LLC PENNEAST PIPELINE PROJECT, PHASE 1 (MP 0.0R1 TO 68.2R3), APPLICATION FOR REVIEW UNDER SECTION 3.8 OF THE DELAWARE RIVER BASIN COMPACT, Page 1

² Answer of PennEast Pipeline Company Feb. 26, 2020, FERC docket CP20-47-000 at accession 20200226-5347.

Worse, as PennEast's answer indicates, the four shippers that have contracted for Phase 1 are all affiliate companies e.g. they are subsidiaries of the companies that own PennEast. Specifically, shipper New Jersey Natural Gas is owned by PennEast owner New Jersey Resources, South Jersey Gas Company and Elizabethtown Gas Company are both owned by PennEast owner South Jersey Industries, and UGI Energy Services is owned by PennEast owner UGI Corporation. PennEast has not attracted a single non-affiliate to contract on this pipeline. Since January 2020, PennEast has claimed (without evidence) that it is very close to getting additional shippers on this project. But here we are six months later, and no such contracts have appeared.

And even this is not the whole story. PennEast has stated in its FERC application that it is splitting its project into two phases because of delays in obtaining "New Jersey Authorizations". As such, Phase 1 stays strictly within Pennsylvania, where "New Jersey Authorizations" do not apply. However, two shippers have reduced their contracted volumes on the Pennsylvania interconnects that applied to the original Certificated project - NJR Energy Services has removed its 50,000 dekatherm/day commitment, and UGI Energy Services has reduced its original 100,000 dekatherm/day commitment to 50,000 dekatherms a day. Given the fact that the Phase 1 pipeline will lay half empty, these drops in commitment are significant. They signal that even PennEast's owners do not feel they can support the pipeline with firm contract agreements.

Finally, a key fact that is not entered into PennEast's application to the Commission is that FERC itself has been questioning PennEast's public benefit, and PennEast is *refusing to answer the question*. In an Answer filed on April 17, 2020 on the FERC docket, PennEast asserts "[FERC] has stated numerous times that it is not required to look behind precedent agreements to evaluate project need, and [FERC] **should not** do so here" [emphasis ours].³ Note that PennEast here confuses agency prerogatives with statutory requirements. FERC is not *required* by statute to look behind precedent agreements, but it may do so if it wishes, and the applicant must comply if so requested. On April 1, 2020, FERC asked PennEast flatly to provide proof of public benefit of the project beyond just precedent agreements.⁴ PennEast has refused. In its response to FERC's April 1st, 2020 Data Request at 7c, the company states "*As with any pipeline project, the shipper is the party responsible for acquiring the necessary downstream capacity to transport volumes from the project delivery points to the ultimate markets for the gas. Based on the shipper's execution of long-term commitments to deliver capacity to these points, PennEast understands that sufficient downstream capacity exists to transport Phase 1 volumes to the markets served by the Phase 1 shippers*".⁵ Put succinctly, when asked a direct question by FERC, PennEast shrugs and states "Not my department". This is rather ironic also given that all

³ PennEast Supplemental Answer, April 17 2020, FERC docket CP20-47-000, accession 20200417-5272

⁴ Letter to PennEast Pipeline Company, LLC to file a response to Environmental Information Request No.2 within 20 days to assist in FERC's ongoing analysis re the certification application for the 2020 Amendment Project under CP20-47, FERC Docket CP20-47-000, accession 20200401-3024, FERC Question 7a "*provide a description of the market the gas will serve*" and "*provide an explanation of gas to be off taken by 50 percent*".

⁵ Response to April 1, 2020 Environmental Information Request, FERC Docket CP20-47-000, April 21, 2020, accession 20200421-5192

four shippers on the project are sister companies of PennEast. To find out this information, PennEast merely needs to ask its own component companies what they intend to do with the gas.

It's worth noting that the US EPA and NJ DEP also asked for information about market need behind the two phases, and were similarly rebuffed by PennEast.

In any case, given that any reasonable company would be eager to show market studies or other data that would help prove the public worth of its project with FERC, the best conclusion remaining is that PennEast has no such evidence of market demand, and is simply forcing its affiliated sister companies to buy gas from it that they do not need and cannot use.

Given the size of this project, its extremely controversial and contested nature, and PennEast's outright evasions on the question of public benefit, that lack of public benefit must be a significant factor in the Commission's deliberations here.

2) PennEast is clearly trying to evade DRBC permits regarding Water Withdrawals and Discharges.

As the Commission knows, PennEast initially applied for water withdrawal and discharge permits in 2016.

Since then, PennEast has withdrawn its application, and submitted the new one in May 2020 that we are commenting on. The company now claims to no longer need a withdrawal or discharge permit, despite extensive evidence to the contrary, and is fighting any and all DRBC jurisdiction over it.

This new 2020 application has little to say about hydrostatic testing or other water uses by the project. All we have is section 3.7 of its application, which states:

“3.7 Use of Surface Water or Groundwater Resources by Phase 1 of the Project within the DRB

*In compliance with USDOT specifications, PennEast will conduct hydrostatic testing on all pipeline segments prior to placing them in service. PennEast will follow the hydrostatic testing procedures identified in Section 7 of the FERC Procedures, which include permitting, notification, withdrawal, testing, and discharge BMPs. PennEast **will source water for hydrostatic testing, HDD activities, and dust suppression from approved sources (e.g., commercial and municipal suppliers)**, and no chemicals will be added to hydrostatic test waters. Hydrostatic test water will not be discharged or used for dust suppression; all used hydrostatic test water and water used for HDD activities will be removed from the site and disposed of at approved water treatment facilities.”*

PennEast is effectively asserting that it is going to use sources that DRBC will approve anyway, and as such there is no need for them to apply for withdrawal permits. In this, the company is mistaken.

PennEast likewise claims to not need a discharge permit, because it will remove all such water from discharge locations itself, and will transport it to “*approved water treatment facilities*”. It will truck even the millions of gallons of hydrostatic testing water to treatment facilities it will be using, even though it should be quite clean and free of contamination.

The Commission must not allow these ploys of PennEast to go forward, as it is clear that PennEast plans to essentially use the same approach which they have documented with the DRBC prior to 2020, and that as such such permit applications are in fact required.

Further evidence of the deception on this topic is found in PennEast's response to FERC on the topic of DRBC jurisdiction, where it states "*the Phase 1 facilities would not have a substantial effect on water resources: as currently designed, that work would **not result in any water withdrawals from groundwater***"⁶ [emphasis ours].

PennEast further states in the same document:

*"DRBC also sets forth other potential justifications for its review based on questions regarding PennEast's sourcing and discharge of horizontal directional drilling ("HDD") water or industrial wastewater, none of which apply here as PennEast anticipates sourcing and discharging its water **using commercial and municipal sources and locations that do not require any DRBC review**"* [emphasis ours].

The impression PennEast leaves the public and Commission with is that it alone can determine what is reviewable by the DRBC, and that PennEast is happy to assure the Commission that it will only draw water from pre-approved "commercial and municipal" sources, and that finally it will magically make all discharges disappear. The conclusion PennEast



Figure 1 - PennEast FEMA Floodplain map near Big Boulder Lake

⁶ PennEast Response to April 1, 2020 Environmental Information Request OEP/DG2E/Gas, April 21, 2020, FERC Accession 20200421-5192 on docket CP20-47-000.

makes is that it therefore does not need to submit a discharge or withdrawal application with the Commission.

Despite the above representations by PennEast, there is in fact substantial evidence in the past and current PennEast DRBC submissions and correspondence that PennEast in fact still plans to draw water from several ground water sources. The map in Figure 1 is from PennEast's Appendix 3 of their application⁷. This map depicts where the pipeline sits in relation to FEMA Floodplains.

This map shows the route near Mile marker 26. In examining at this map, we were struck that the AR-036A access road in that diagram seemed to be primarily included to access Big Boulder Lake. Indeed, it looks like a road specifically for water withdrawals.

There was another similar road around mile marker 26 shown in figure 2.⁸

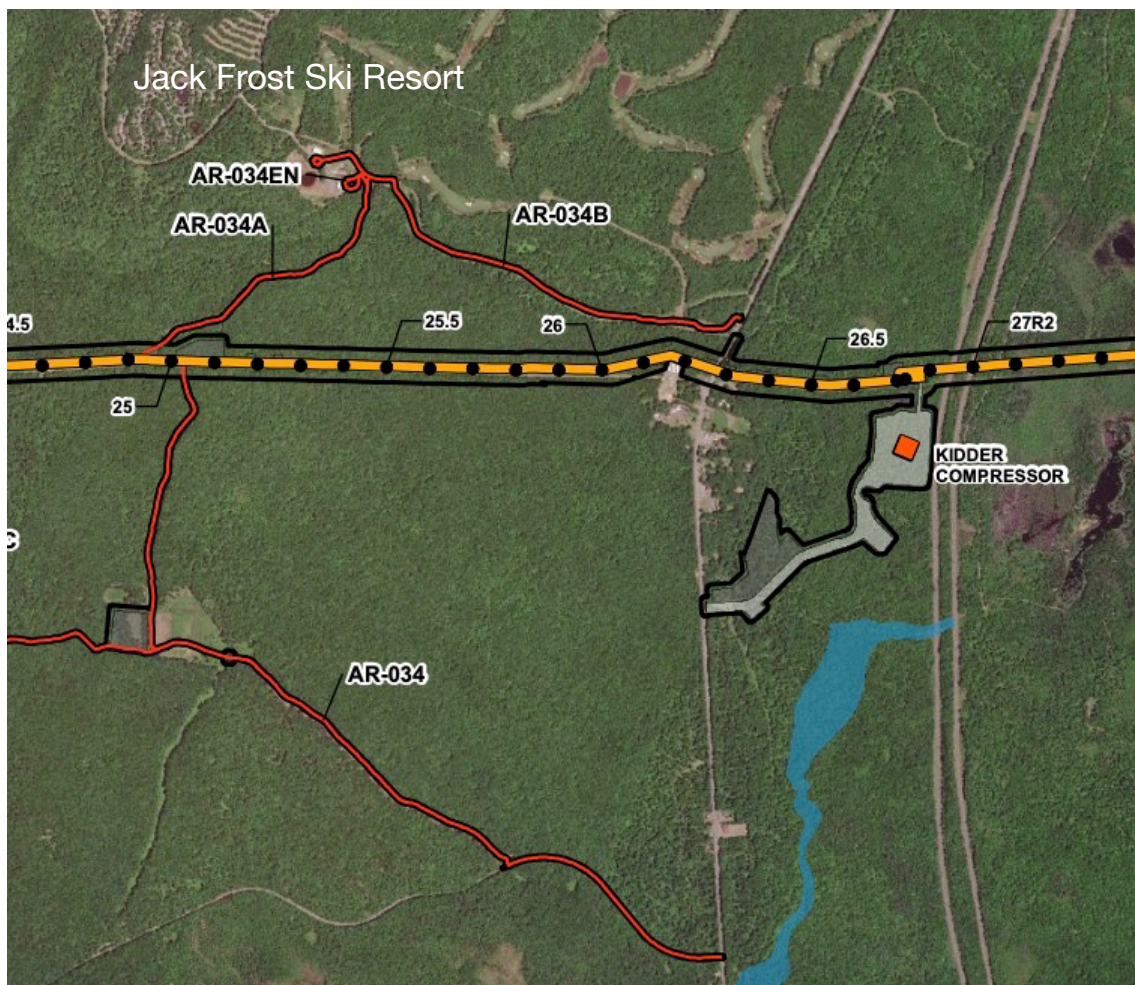


Figure 2 - PennEast FEMA Floodplain map near mile marker 26

⁷ PennEast DRBC Application, May 2020, Appendix A-3, FEMA Floodplain maps, Sheet 3. Note: the PennEast diagrams do not include any landmarks other than the pipeline route and above ground facility IDs. We added in labels for Big Boulder Lake and Lake Harmony.

⁸ id

The AR-034B, AR-034EN, and AR034A access roads marked there seem to be going to a specific facility, specifically part of the Jack Frost Ski Resort, which we have labelled on the map.

As it turns out, these two access roads are indeed specifically designated as roads for water trucks, and PennEast intends to use these roads to draw water out of Big Boulder Lake and Tobyhanna Creek at Jack Frost.

Google searches revealed a document that helps pull this story together - a Google cached version of a memo from PennEast's contractor AECOM to the DRBC filed on May 12, 2017⁹. The letter states "*This memorandum contains additional information about the water withdrawal plans in response to discussions in April 2017.*"

It includes the following references:

*"**Big Boulder Ski Resort** is located approximately 2 miles east of MP 29.8R2 of the PennEast mainline pipeline in Kidder Township, Pennsylvania. PennEast plans to use a portion of Big Boulder Drive that wraps around the southwest side of the lake as a temporary access road for the Project. This access road, **AR-036A**, would allow water trucks to travel easily to the proposed point of water withdrawal[...] if using Big Boulder's intake equipment is not a viable option, **PennEast would use a water pump** with screened intake device **in the lake** directly adjacent to the pump house".* The referenced access road AR-036A is the road from the first map in this comment that goes to Big Boulder Lake, and they clearly state that PennEast will be directly pumping water from the lake.

It then talks about the Jack Frost Ski Resort:

*"The Jack Frost Ski Resort withdrawal point is located approximately 1.6 miles east of MP 24.3 of the PennEast mainline pipeline in Kidder Township, Pennsylvania. PennEast plans to access the water on the west side of the creek at an existing intake structure operated by Jack Frost Ski Resort. [...] if using Jack Frost's intake equipment is not a viable option, **PennEast would use a water pump** with screened intake device **in Tobyhanna Creek** directly adjacent to the pump house[...] Water trucks will be able to access the withdrawal location from the pipeline ROW via temporary access road **AR-034B** to Jack Frost Ski Resort's existing roads."*

As with Big Boulder Lake, the access road here is indeed intended to be used by water trucks, and again PennEast indicates it will be drawing water directly from Tobyhanna Creek.

Finally, we note that the date of the FEMA floodplain maps in Appendix A-3 are all dated 5/6/2020. So these are all recent maps, not old materials.

In conclusions, while PennEast claims it will draw water only from commercial and municipal sources, in reality its FEMA flood plain maps still show access roads whose only purpose is to serve water trucks that will draw water from ground water locations and truck it to the pipeline

⁹ AECOM letter to DRBC, May 12, 2017 - https://webcache.googleusercontent.com/search?q=cache%3AJT9v8TlloEQJ%3Ahttps%3A%2F%2Fwww.nj.gov%2Fdrbc%2Flibrary%2Fdocuments%2Fpenn-east-application%2F051217%2FSupplemental-InfoMemo.pdf%20&cd=4&hl=en&ct=clnk&gl=us&fbclid=IwAR20GdFisS8vBnCpa9HE3-vJeag4AyokFfp_Jlw3vzHmFY7J2nn1j0pCiUI

locations. AECOM has already admitted to the Commission that PennEast plans to pull water directly from Tobyhanna Creek and Big Boulder.

It is clear from the AECOM memo that PennEast's strategy is to try to hide behind other firms' DRBC dockets, and to claim it will utilize the surplus withdrawal capacity of those dockets. PennEast should not be allowed to camouflage its activities in this manner. The Big Boulder Lake and Jack Frost Ski resort usages are approved for snow making on mountains in the region.¹⁰ The PennEast usage includes, among other things, using the water as HDD fluid, and then trucking the water to undefined "water treatment facilities" that may not even be within the Basin.

On the topic of Water Discharge they claim that there will be no discharges at all, but offer no evidence of how this will be achieved.

The Commission must see this behavior for what it plainly is - a bald-faced attempt to evade the DRBC and its required Water Withdrawal and Water Discharge permits.

3) PennEast fails to inform the Commission that "Phase 2" likely will not be built.

PennEast fails to inform the Commission that at this time it cannot legally construct Phase 2 of the project. This is due to an adverse court ruling against the company. On September 10, 2019, the Federal 3rd Circuit Court of Appeals ruled that PennEast could not condemn 42 properties that the State of New Jersey had an interest in along the Certificated Route. The court ruled that such an action would violate the state's sovereign immunity under the 11th Amendment of the Constitution.¹¹ PennEast has appealed this to the Supreme Court via a writ of certiorari, which the Court has not yet decided to take.¹² Given that the Supreme Court takes less than 2% of cases brought before it, PennEast is highly unlikely to prevail. Even if the case is taken and PennEast wins, it still would face the New Jersey DEP for its Clean Water Act 401 and Wetlands 404 permits (to date, NJ has rejected its application). In addition, the Supreme Court is now adjourned until October, so at the very least PennEast faces additional lengthy delays.

As such, it is extremely misleading for PennEast to be speaking of a Phase 2 project and a full 1.1 million dekatherms/day of capacity when the chances of Phase 2 ever being built are extremely slim.

¹⁰ JFBB Ski Areas, Inc DRBC Docket D-1993-057-3 and D-1993-053-3

¹¹ PENNEAST PIPELINE COMPANY, LLC vs State of New Jersey et al
<https://www2.ca3.uscourts.gov/opinarch/191191p.pdf>

¹² Supreme Court Docket 19-1039, <https://www.supremecourt.gov/docket/docketfiles/html/public/19-1039.html>

4) The Anticipated Schedule is not realistic, and the Commission should not feel compelled to honor it.

In section 2.1 of its application, PennEast states that it has asked FERC for a Certificate by October 1st, 2020, and anticipates to begin tree felling in January, 2021, with an in-service date of November, 2021.¹³

This schedule is preposterous and should not be taken seriously by the Commission, nor should the Commission feel compelled in any way to honor it.

The PennEast project was first proposed back in the summer of 2014, six long years ago. Since its proposal, numerous natural gas pipelines have been built in the area, and renewable energy has been surging in importance year after year.

Clearly the world has moved on without PennEast, and given the lack of any third party support for this project, there is no rush at all by **any** entities in the region for this project to be initiated (other than PennEast itself, of course).

Beyond the general lack of market urgency, it is even more shocking that PennEast fails in any way to consider the pandemic that is facing the world today. At the time of PennEast's FERC application, January 2020, Covid-19 was a distant concern here in the U.S., and the company can be forgiven perhaps for an overly aggressive timeline. But this application was sent in May of 2020, when the pandemic had been raging in New Jersey and Pennsylvania for months, and with some of the highest deaths and infection rates in the nation. These States where the DRBC and other agencies are located have been in work-from-home lockdowns since March. All agencies have seen very significant slowdowns and work impacts as they try to work at home through regulatory processes that were designed to work most efficiently at agency offices. It is entirely unreasonable in this environment for PennEast to request this application be approved in a bare five months.

Further, when you consider that the scope and the impacts of this project, the Commission must mandate multiple public review periods at multiple locations within the Basin. Agency review of PennEast's materials along with public comment will certainly take far more than 5 months, and the Commission should not entertain this request.

In addition, other agencies have seen the same slow downs the Commission has been experiencing. FERC itself appears to be running a much lower than normal level of efficiency. As such it is highly unlikely that PennEast will even have a FERC Certificate by October (if it is even approved at all). As of this writing, FERC has not even issued its Draft Environmental Assessment of the project yet, nor has the Draft EA public comment period commenced.¹⁴

¹³ PennEast 2020 DRBC Application

¹⁴ The original FERC timeline for issuing the EA was July 10th, 2020, which has passed

5) The PennEast route clearly targets woodlands and agriculture

In table 3-1 of its application, PennEast shows that nearly 300 acres of temporary and 154 acres of permanent land impacts would be in Forest/Woodland areas¹⁵. It defines such areas as “*Tracts of upland or wetland forest or woodland that would be removed for the construction ROW or extra work or staging areas*” along the approximately 54 miles of the route within the DRB. These are 57% of the total temporary impacts of 517.7 acres, and a staggering 67% of the permanent impacts.

Adding in agricultural land to that total, the results are far worse. **Forest/Woodland + agricultural lands equals 83% of the temporary space and 88% of the permanently impacted space of this project.**

It is clear from these numbers that, despite their protestations, PennEast is making no attempt to minimize its impact in these areas. Instead, the company is likely purposefully targeting undeveloped woods and farms as the cheapest land for it to acquire. While it claims that “*the alignment of the pipeline has been co-located within, or parallel to, existing, previously disturbed, and maintained pipeline and transmission line ROWs to the extent practicable*”, a cursory glance at a map will show this is not accurate.

6) The so-called “30’ ROW” is a ploy to try to minimize appearance of impacts.

The Commission should not be deceived by PennEast’s statements about a “30’ operational ROW”. This is PennEast’s artificial and transparently false attempt to minimize the appearance of environmental impacts. PennEast is spending millions of dollars to acquire land. It would not spend the extra dollars to acquire a 50’ easement if it didn’t intend to use it.

In addition, not a single map submitted by PennEast shows a “30’ operational ROW”.

The Commission should also note that the original PennEast application to the DRBC consistently used a 50’ ROW in all its tables and measurements in nearly all places. This aggressive use of the 30’ artificial “Operational ROW” in the 2020 application is new.

This is a clear attempt by PennEast to dramatically understate the impact this project will have within the Basin and on groundwater quality.

7) The Tables 3-1 and 3-2 lack consistent totals.

Both tables 3-1 and 3-2 in the application purport to show Land Use Acreage “within the DRB”). The first shows impacts by land type (agricultural, Woodland, etc) and County, with totals. The second shows a breakdown by facility type (mainline, laterals, etc).

A portion of Table 3-1 is shown in Figure 3, with the temporary and permanent land use totals highlighted in red. That table totals to 517.7 acres temporary land use by the project, and 228.9 “permanent” land use acres. The footnote notes “*Permanent land use impacts are limited to the 30-foot operational ROW, permanent aboveground facilities, and permanent access roads*”.

¹⁵ Id

Table 3-1
and Operation of Phase 1 of the Project within the DRB

Land ⁴	Residential ⁵		Industrial/ Commercial ⁶		Open Water ⁷		Total	
Perm. Land Use acres ⁹	Temp. Land Use acres ⁸	Perm. Land Use acres ⁹	Temp. Land Use acres ⁸	Perm. Land Use acres ⁹	Temp. Land Use acres ⁸	Perm. Land Use acres ⁹	Temp. Land Use acres ⁸	Perm. Land Use acres ⁹
0.2	0.3	0.0	0.4	0.1	0.3	0.2	98.3	31.5
12.1	1.9	0.9	7.0	4.8	0.3	0.6	260.8	133.9
0.5	0.0	0.0	1.8	0.1	0.0	0.0	7.5	3.5
1.2	7.8	4.5	11.2	2.1	0.0	0.0	151.1	60.0
14.0	10.0	5.4	20.4	7.1	0.6	0.8	517.7	228.9

Figure 3 - A portion of table 3-1

In contrast, Table 3-2 shown in Figure 4 totals to 418.3 temporary acres and 195.6 “permanent” acres in the so-called “30’ operational ROW”.

Why is table 3-2 showing 99.4 fewer acres of temporary impact than table 3-1? Table 3-2 also shows 33.3 fewer acres of permanent impact within the artificial 30’ permanent ROW. Again,

Table 3-2
Land Requirements for Phase 1 Facilities within the DRB

Facility	Pipeline Length (miles)	Temporary Workspace for Construction (acres) ¹	Permanent Easement (acres) ²	Total Workspace for Construction (acres) ³	30' Maintained ROW (acres)
36-inch mainline pipeline	53.3	299.2	295	594.2	193.7
4-inch Blue Mountain Lateral	0.5	2.6	3	5.6	1.9
Aboveground Facilities	-	3.2	30.1	33.3	-
Access Roads	-	77.9	-	77.9	-
Wareyards	-	8.0	-	8.0	-
Staging Areas	-	27.4	-	27.4	-
Total Project	53.8	418.3	328.1	746.4	195.6

Figure 4 - Table 3-2 from the PennEast application

why? It makes no sense. PennEast’s numbers literally do not add up with each other. This is a recurring theme with PennEast - it offers up numbers from different versions of the project, or with different assumptions, and as a result, the numbers that are arbitrary and meaningless to the reader.

8) Table 3-7 listing National and State Non-Urban Recreational Areas is inaccurate and inconsistent

Table 3-7 in the application purports to show temporary workspace acres, permanent ROW

**Table 3-7
National and State Non-Urban Recreational Areas Crossed by Phase 1 of the Project**

Location	Acres within the Temporary Workspace	Acres within the Permanent ROW	Acreage within the 30-foot Maintained ROW
Frances E. Walter Reservoir	1.4	1.1	0.8
Hickory Run State Park	19.4	12.6	12.6
Weiser State Forest	3.9	2.7	2.5
Beltzville State Park	0.8	6.4	3.8
Beltzville Reservoir	0.0	0.7	0.4

Figure 5 - Table 3-7 from the PennEast application

acres, and the artificial 30' ROW acreage for “National and State Non-Urban Recreational Areas” crossed by the project. The table is shown for reference in Figure 5.

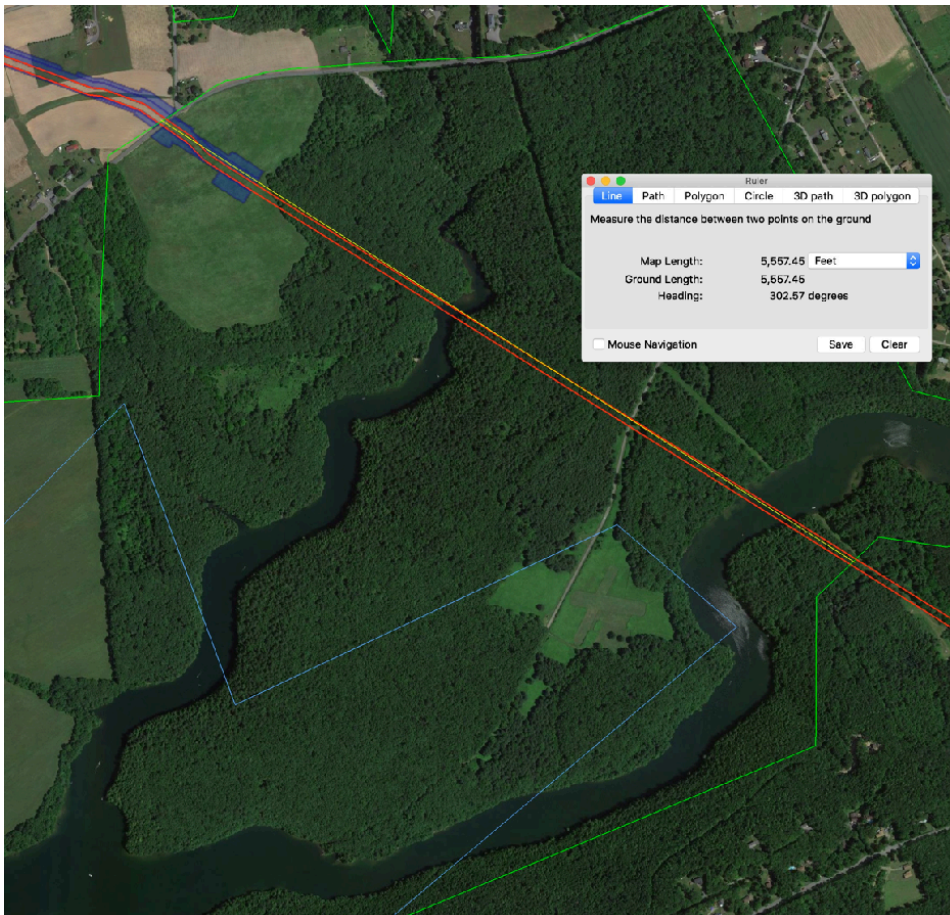


Figure 6 - Length of pipeline traversal within Beltzville Reservoir & State Park

There are multiple problems with this table. We have performed a desktop survey based on the PennEast route in Google Earth which reveals discrepancies with PennEast's numbers, and also show internal inconsistencies within the table itself.

The Beltzville State Park numbers look correct, and helped serve as a benchmark for our findings. Figure 6 shows our rough Google Earth measurement of the pipeline traversing the park boundaries.

The yellow line measurement along the ROW shows roughly 5,550 feet. To get acreage we use the formula:

$$Acreage = \frac{LinearDistance * ROWWidth}{43,560feet/acre}$$

Plugging in 5,550 feet in length and a 50' ROW, we get:

$$\frac{5,500' * 50'}{43,560ft/ac} = 6.37acres$$

This matches PennEast's 6.4 acre number with rounding. Using the same formula with a 30' ROW gets us 3.82 acres, which also matches nicely with PennEast's rounded down 3.8 acres.

As a further check of consistency, the ratio of 30' ROW acreage to 50' ROW acreage should intuitively be 60%, and that proves correct.

From there it goes down hill however. Figure 7 contains our own measurements of acreage within the ROW, along with a number of other recreational facilities PennEast overlooked in its application.

Recreational Area	Linear Feet	Calc'd 50' ROW	Calc'd 30' ROW	Calc'd Ratio	PE 50' acreage	PE 30' acreage	PE Ratio
Frances E. Walter Reservoir	588	0.67	0.40	60.0%	1.1	0.8	72.7%
Hickory Run State Park	18,357	21.07	12.64	60.0%	12.6	12.6	100.0%
Weiser State Forest	3,400	3.90	2.34	60.0%	3.9	2.7	69.2%
Beltzville State Park	5,550	6.37	3.82	60.0%	6.40	3.80	59.4%
Beltzville Reservoir	487	0.56	0.34	60.0%	0.7	0.4	57.1%
Bethlehem Water Authority	15,075	17.30	10.38	60.0%	N/A	N/A	N/A
PA State Game Lands 129	2,579	2.96	1.78	60.0%	N/A	N/A	N/A
PA State Game Lands 40	4,430	5.08	3.05	60.0%	N/A	N/A	N/A
PA State Game Lands 168	3,848	4.42	2.65	60.0%	N/A	N/A	N/A
PA State Game Lands 91	17,942	20.59	12.36	60.0%	N/A	N/A	N/A
Totals	54,314	62.34	37.41	N/A	24.70	20.30	N/A

Figure 7 - Comparison of Recreational Impacts

This table shows our measured linear feet within the recreational lands based on a Google Earth desktop survey, and calculates the 50' and 30' ROW based on the acreage formulas shown above, and finally shows the stated PennEast acreage and ratios between them. As we can see, the PennEast numbers are widely off the mark from the proper ratio.

The Francis E. Walter Reservoir, Hickory Run State Park, Weiser State Forest, and Beltzville Reservoir ratios between the 30' ROW and 50' ROW are not at 60%, but instead stand at 72.7%, 100%, 69.2%, and 57.1%.

Beyond the inconsistency in PennEast's numbers, the company also fails to identify a number of recreational areas that the pipeline traverses within the Basin. According to its application, the criteria for inclusion in the table is "*public land, reservoirs, recreation areas, conservation areas, and other areas designated as having a special land use that are crossed by or located within the vicinity Phase 1 alignment*". Using that criteria, PennEast must also include the Bethlehem Water Authority lands and four Pennsylvania State Game Lands that are crossed (Game Lands number 129, 40, 168, and 91).

By including these lands, the impacted recreational acreage balloons 2.5 times from PennEast's 24.7 acres to 62.3 acres. If we accept PennEast's artificial 30' ROW, the impact is "only" 1.8 times greater, going from 20.3 acres to 37.4.

It seems clear from the disturbing patterns in this application that these omissions are likely intentional attempts to downplay the impact the pipeline will have within the Basin.

9) PennEast statements of revegetation of disturbed ROW is misleading

In section 4.1.1 of the application, Erosion and Sediment Control, PennEast claims that "*Disturbed ROW locations will be restored and permanently revegetated shortly after installation of the pipeline facilities as described in the Project E&SCP*". This statement is highly misleading. PennEast cannot allow the ROW to grow unchecked and regulations only allow limited vegetation. Specifically, PennEast is required by law to regularly maintain the ROW and clear all trees, bushes, and shrubs.

PennEast plans to cut hundreds of acres of trees within both its permanent ROW as well as the temporarily construction ROW. The overall construction ROW plus the permanent ROW in total is nominally 100' wide (this varies and is often narrower in environmentally sensitive areas). As is documented elsewhere in this commentary, many of the trees to be cut within PA game lands and State parks are mature, and would take many, many years to reforest.¹⁶

So the "temporary" impacts in the construction ROWs are much more permanent than PennEast lets on.

And of course, within the permanent ROW, no trees can be allowed to grow at all. PennEast is required by the U.S. Pipeline and Hazardous Materials Safety Administration to keep the ROW clear of all trees and large shrubs. Per the PHMSA website:

¹⁶ If they even survive replanting at all. Delaware River Keeper Network and others have documented numerous such re-plantings where the saplings were ravaged by deer and insects.

“To monitor and protect a natural gas transmission pipeline, the pipeline right-of-way (ROW) is maintained to keep it free from excessive plant growth and tree cover. This ensures that the pipeline operator's ROW surveillance activities are not hindered. The cleared and maintained ROW is monitored for encroachment, signs of leakage, unauthorized excavation over the pipeline, and other problems. A clear ROW also ensures that the operator and emergency responders have unhindered access to the pipeline in case of an emergency. Closely monitoring the pipeline helps in preventing third-party damage, resulting from unauthorized excavation.

*Clear ROWs also enable aerial surveillance of the pipeline. Pipeline companies periodically fly over and along the pipeline ROWs looking for indications of leaks, excavation activity or other unusual activities of interest. Flyovers are performed with varying frequencies, but can be as often as three times per week. Frequency may vary depending upon the level of activity in the area. When something of interest is spotted, the pilot or spotter reports it to the operator, who investigates further. **ROW mowing and clearing usually occurs during the spring or summer months and is performed only every 3 or 4 years**”.* [emphasis ours]¹⁷

As such, PennEast’s claim that “*Disturbed ROW locations will be restored and permanently revegetated*” is an out right falsehood. PHMSA literally requires the company to clear and mow the permanent easement perpetually.

10) Off-Site Compensatory Wetland Mitigation means little in important and sensitive areas

PennEast is proposing creation of new wetlands as a “mitigation” for the permanent damage it will inflict. The “compensatory” wetlands are being proposed over 20 miles away from the pipeline in a completely different sub-basin of the DRB (and barely within the DRB at all). We fail to see how creating artificial wetlands 20 miles distant will mitigate the damage to the wetlands where the pipeline is being proposed through the DRB. While such mitigation may be acceptable to the PADEP, which is balancing the wetlands impacts across the entire State of Pennsylvania, the Commission is focused strictly on the DRB. Destroying wetlands within one sub-basin of the Basin and replacing them with another set in another sub-basin is unacceptable.

11) PennEast makes false guarantees about not causing expense to the public for protecting against floods it may cause.

Regarding protection against floods from a project’s impacts, PennEast says “*Through the implementation of the E&SCP, Site Restoration Plan, and Wetland and Riparian Restoration Plan, development and long-term maintenance activities for Phase 1 of the Project will not result in public expense to protect the property and associated public services from flood damage*”. This is a false statement. By PennEast’s own admission, its project will cause harm to land that in turn will cause impact to groundwater and can contribute to flooding. The practices listed in the above sentence do not eliminate ground water impacts or eliminate the threat of flooding - they are merely practices that help reduce the possibility of those events, but serve as no guarantees. Just as financial traders have learned that no financial “hedge” is perfect, no environmental mitigation measure is perfect, and by

¹⁷ <https://primis.phmsa.dot.gov/comm/NGCustomers.htm>

PennEast's own admission they cannot make the guarantee they state above. In particular, clear cutting along steep slopes, which this project proposes, is a known factor in flood risk.

12) PennEast attempts to badly mislead the Commission by referring to the purpose and need determination of FERC on an outdated application that does not apply here.

In section 4.4.1, PennEast cites DRBC rules stating that a special permit may be granted within the Floodway and Flood Fringe if it shows “[t]here is a clear balance in favor of the public interest in terms of the following environmental criteria”.

In response to this, PennEast states “*As described in the Project’s Final Environmental Impact Statement (FERC, 2017) (“FEIS”) and Certificate Order, the Project has been designed to provide a long-term solution to bring the lowest cost natural gas available in the country produced in the Marcellus Shale region in northern Pennsylvania to homes and businesses in New Jersey, Pennsylvania, and surrounding states. FERC, the agency with exclusive jurisdiction to do so, has already found that the Project is needed in the public interest. The Project was developed in response to market demands in New Jersey and Pennsylvania, and interest from shippers that require transportation capacity to accommodate increased demand and greater reliability of natural gas in the region. An additional supply of natural gas to the region will provide a benefit to consumers, utilities and electric generators by providing enhanced competition among suppliers and pipeline transportation providers*”.

This determination was made by FERC regarding the original 115-mile long project that ran from Luzerne, PA to Mercer County, NJ. It included several interconnects in New Jersey. Indeed, the bulk of the natural gas delivered by the original PennEast project was to be delivered in New Jersey.

Those conditions no longer apply. Going from north to south, this proposed pipeline starts in Luzerne County, PA, and ends just below the junctions of Route 33 and 22 in Northampton County, PA. It never enters New Jersey, and never services any New Jersey interconnects. Indeed, as outlined earlier in this set of comments, this new pipeline does not even service all of the original *Pennsylvania* customers.

And, as we have indicated, there is strong evidence that this so-called “Phase 2” pipeline entering New Jersey will not be built at all.

As a result, FERC’s original purpose and need determination is worthless in evaluating *this* pipeline. For this pipeline, what the Commission needs to understand is the following:

1. PennEast has been **unable to attract any third party** interest in this pipeline.
2. PennEast has **convinced** a fraction of its owners to **have their subsidiaries to buy** from this pipeline in a **self-dealing circle**. Such a circle is not an arms-length transaction.
3. PennEast has **refused to inform FERC** how the New Jersey subsidiaries that are subscribed to Phase 1 **will receive gas from this Pennsylvania-only pipeline**. Not omitted, refused.
4. PennEast has **flatly refused** to describe to FERC **the market need** for this pipeline

5. PennEast has **refused** both the **NJDEP** and **US EPA's** requests for market information.

6. This pipeline is **half unsubscribed**. The company been unable to find any takers for the remaining capacity.

In addition to the above, all of the above factors took place before the global pandemic impacted global markets. Post Covid-19, the need for this pipeline is even less than it was before.

13) PennEast's Pipeline Erosion and Sediment Control Plan Drawings Alignment Index is incorrect

Figure 8 shows a portion of the ESCP alignment indexes, annotated by us.

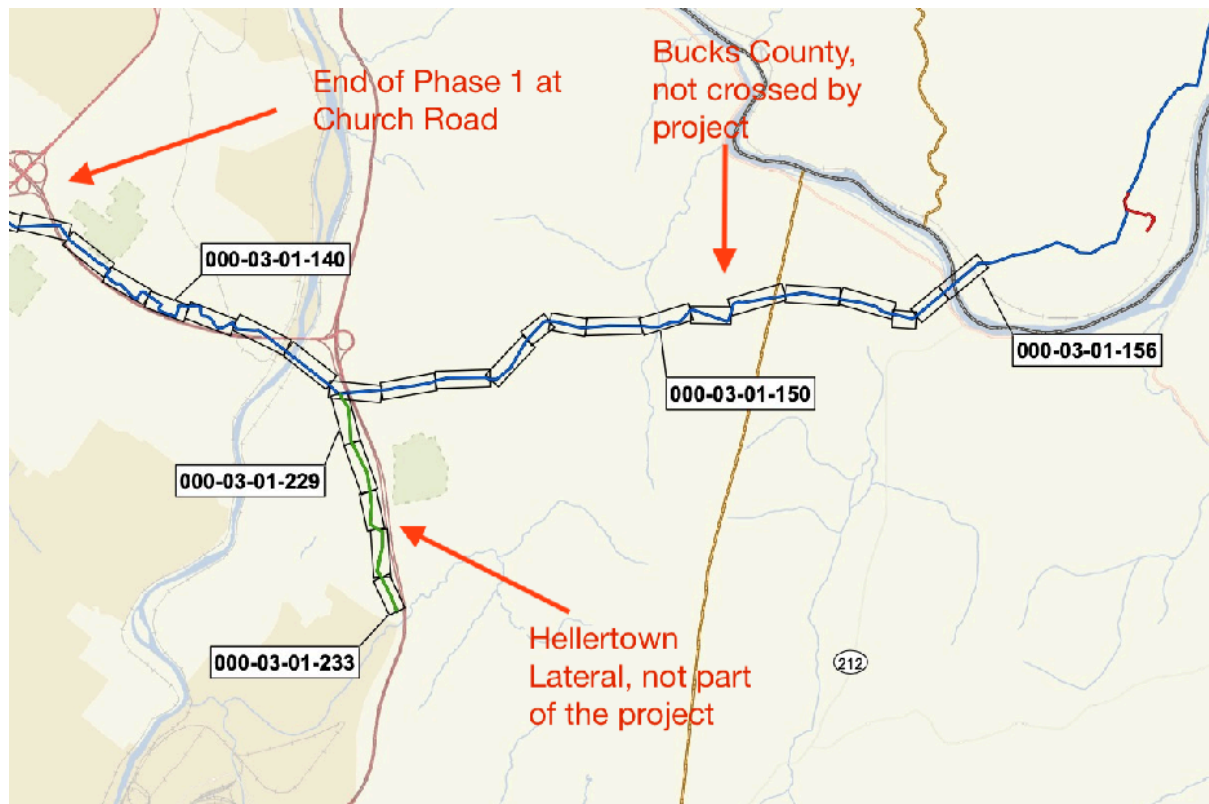


Figure 8 - Erosion and Sediment Control Plan Alignment Index

As the annotations show, PennEast is portraying areas in Northampton County and Bucks County, PA that are not part of this project. We show the End of Phase 1 at Church Road on the left of the drawing. The remaining portions, including the Hellertown Lateral, are not in PennEast's Phase 1 project at all.

This error may be due to PennEast arbitrarily reusing various parts of applications it has made to PADEP and FERC in the past. In this case, it appears it submitted some portions of an outdated PADEP application. This is part of a larger pattern of sloppiness by PennEast in its application to the Commission.

14) Table 3.2 Improperly accounts for above-ground facilities

Table 3.2, which addresses with “Land Requirements for Phase 1 Facilities within the DRB”, paints a complicated picture that seems designed to confuse and confound the reader. An annotated copy of this table is shown in Figure 9.

Facility	Pipeline Length (miles)	Temporary Workspace for Construction (acres) ¹	Permanent Easement (acres) ²	Total Workspace for Construction (acres) ³	30' Maintained ROW (acres)
36-inch mainline pipeline	53.3	299.2	295	594.2	193.7
4-inch Blue Mount Lateral		2.6	3	5.6	1.9
Aboveground Facilities	-	3.2	30.1	33.3	-
Access Roads	-	77.9	-	77.9	-
Wareyards	-	8.0	-	8.0	-
Staging Areas	-	27.4	-	27.4	-
Total Project	53.8	418.3	328.1	746.4	195.6

Figure 9- Annotated Table 3.2

As mentioned earlier, this table significantly differs from a similar Table 3.1, with very different totals for what purports to be the same sums. We have found that, in addition to those problems, PennEast has tried to hide the acres attributed to the Aboveground Facilities such as the Kidder Compressor Station.

Specifically, in its narrative, the company states “*operation of Phase 1 will account for approximately 195.6 acres of permanent disturbances associated with maintenance of a 30-foot-wide pipeline ROW and operation of the aboveground facilities, including associated access roads*”. However, the 195.6 acre number accounts *only* for the 30' Maintained ROW, and does not account for either the Aboveground Facilities or the Access Roads. Aboveground Facilities are shown under the Permanent Easement column, and no permanent access road acreage is shown at all. This is clear slight-of-hand by PennEast to try to understate permanent impacts. **By using this method, PennEast manages to understate the permanent impact by 9%, showing 195.6 acres when the correct number (according to this table at least) is 225.7 acres.**

There are other problems with this table. PennEast claims that the Permanent Easement number is “*calculated within the generally 50-foot-wide permanent easement that PennEast has acquired for construction and operation*”. If that is true, then acreage can be calculated directly with the formula given earlier in our comments:

$$\frac{Plength * ROWwidth}{43,560ft/ac}$$

Given that PennEast’s table is in miles, one needs to also convert miles to feet. Looking at the 36-inch mainline’s stated length in the table as 53.3 miles, the acreage calculation for the mainline is:

$$\frac{53.3mi * 5,280ft/mi * 50ft}{43,560ft/ac} = 323.03 \text{ acres}$$

Yet PennEast’s total for the 36-inch mainline pipeline is 295 acres. **That’s 28 acres missing, or a 9% understatement of the impact.**

15) PennEast’s FEMA Flood Zone Data is inaccurate and inconsistent

Table 3-6 in the application is a “*Summary of FEMA Flood Zones Crossed by the Phase 1 Pipeline Facilities within the DRB*” is shown in Figure 10. It claims to list the linear miles of facilities within the FEMA defined 100-year floodplain, temporary workspace acreage impacted, and permanent ROW acreage.

Facility	FEMA SFHA		
	Linear Miles	Acreage within Temporary Workspace	Acreage within Permanent ROW ¹
PennEast Mainline Pipeline	0.5	1.1	1.9 ²
Blue Mountain Lateral	0.0	0.0	0.0
Kidder Compressor Station	-	0.0	0.0
Access Roads	0.7	0.9	0.5 ³

¹ Permanent ROW includes 50-ft permanent easement, permanent aboveground facilities, and permanent access roads.

² Floodplain impacts within the permanent ROW will be temporary

³ Existing access road will be used for permanent access to the Blue Mountain Interconnect. No improvements are necessary.

Figure 10- FEMA flood plain crossing miles and acreage

First, unlike the rest of the application, PennEast provides only the 50’ permanent ROW acreage, and makes no mention of its artificial “30’ Operational ROW” that the company uses elsewhere. This inconsistency reinforces the artificial nature of the 30’ wide ROW.

Second, the permanent ROW acreage numbers are inconsistent with the Linear Miles represented by PennEast. The company claims the mainline has “0.5 miles” of impact and claim that equates to 1.9 acres of impact within the permanent ROW. But this makes no sense. The formula below shows acreage calculation for half a mile of 50’ wide ROW:

$$\frac{0.5mi * 5280ft/mi * 50ft}{43,560ft/ac} = 3.03 \text{ acres}$$

This shows PennEast is under representing impacts by 27%.

But the error is even greater for Access Roads. PennEast claim 0.7 linear miles of roads resulting in 0.5 acres within the permanent ROW. But this is incorrect. The equation for that is:

$$\frac{0.7mi * 5280ft/mi * 50ft}{43560ft/ac} = 4.24ac$$

This is a misstatement of 89%. We've noted the footnote stating "*Existing access road will be used for permanent access to the Blue Mountain Interconnect. No improvements are necessary*" on this data

Map #	Nearest Mile marker	Type	Length (Ft)	Acreage	Road Length	Road Acreage	Tree Clearing Acreage	Notes
1	16.1	Mainline	590	0.677			1.01	
1	16.7	Mainline	56	0.064			0.10	
1	AR-031B	Road		0.000	384	0.441		
1	AR-031C	Road		0.000	45	0.052		
2	19.7	Mainline	77	0.088			0.14	
2	22.6	Mainline	111	0.127			0.19	
2	23	Mainline	1,191	1.367			1.81	
2	AR-033A	Road			65	0.075		
2	AR-033B	Road			250	0.287		
5	33.2R3	Mainline	103	0.118			0.11	
6	43.5R3	Mainline	376	0.432			0.00	HDD
7	44R3	Mainline	981	1.126			0.00	HDD
7	48.1	Mainline	327	0.375			0.41	
7	49.3R3	Mainline	408	0.468			0.43	Partial Bore
7	AR-048	Road			100	0.115		
8	53.3R3	Mainline	130	0.149			0.21	
8	56	Mainline	584	0.670			0.53	Portions only partially in flood plain
8	56.7	Mainline	120	0.138			0.21	
9	60.3R2	Mainline	138	0.158			0.23	
9	61.5R3	Mainline	638	0.732			0.29	
9	63.5	Mainline	294	0.337			0.28	
9	AR-055	Road			190	0.218	0.00	
Total			6,124	7.029	1,034	1.187	5.95	

Figure 11 - Desktop Survey Results of FEMA Floodplain Impacts

point, but it's not clear what PennEast means by this. And more importantly, it's not relevant as the Blue Mountain Interconnect and the access road there does not cross a FEMA floodplain.

Looking at the maps in Appendix A-3 does not help to sort through the confusion¹⁸. The maps are poor in quality, with no road names or other features labeled, other than PennEast access roads and mile markers.

To work around this, we remeasured the flood plain lengths ourselves in Google Earth using FEMA's NFHL map layer version 3.2 against the pipeline route. This allowed for high quality maps and measurements. Appendix A has the full set of screenshots of all the linear feet and acreage tree cutting estimates. Figure 11 contains the results of those measurements.

Each line in the table documents a crossing of the floodplain by the pipeline by mile marker or of an Access Road by Access Road ID. We indicate which map number this location corresponds to in PennEast's Appendix A-3. It shows the measured length of the crossing in feet and calculated acreage within the 50' permanent ROW for both the mainline and for roads (separated out for convenience). Finally we show the measured tree clearing acreage for each crossing as well, along with any notes about the site.

We visually verified that all the FEMA flood plain designations in Google Earth matched those in PennEast's drawings in A-3. But our measurements show much, much higher impacts than PennEast has indicated.

To recap, PennEast claims a 0.5 mile (or 2,640 foot) linear impact, with 1.9 acres of impact assuming a 50' permanent easement.

But our measurements shows over 6,100 linear feet of impact, resulting in over 7 acres of flood plain lands impacted. PennEast under states the linear impact in FEMA floodplains by 2.4 times. And understates the acreage by 3.8 times.

In addition, the **claim that “*Floodplain impacts within the permanent ROW will be temporary*” is false.**

In reality, in nearly all the flood plain crossings there are existing stands of trees that will be cut within the temporary and permanent rights of way. Those areas would take decades to reforest to the same levels (if ever). And the permanent ROW, as we have shown earlier, must be cleared and mowed regularly by PHMSA statute.

And we can see there are many such trees that will be cut. Appendix A once again has pictures of all our desktop survey measurements of tree cutting activity that will be undertaken within FEMA flood zones by PennEast. Figure 11 summarizes this - nearly 6 acres of trees will be cut within the floodplain. Note that in nearly all cases this is old growth forest being impacted within parks, reservoirs, or state game lands.

To make matters even worse, PennEast will often be tree cutting on steep slopes, which increases flood risks and increases erosion and sedimentation problems in rivers.

Figure 12 shows the situation at the Lehigh River crossing.

¹⁸ https://www.nj.gov/drbc/library/documents/penneast-application/051120/AppendixA/A-3_FEMAFloodplainMaps.pdf

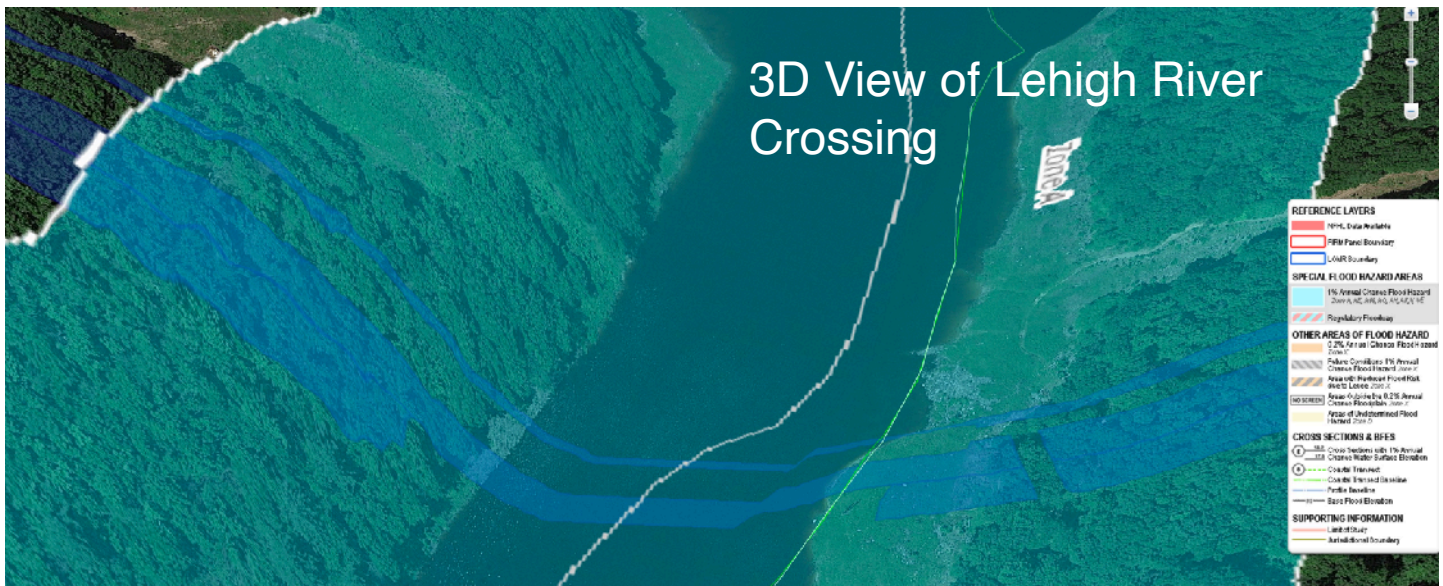


Figure 12 - Lehigh River FEMA flood plain crossing

As the 3D representation makes clear, PennEast will be cutting several acres of trees on either side of the river within the flood zone. To make matters worse, as you can see the blue temporary construction corridor continues through the river. This means PennEast is not boring under the river at this site, but instead is open trenching through it. This will release a massive amount of sedimentation downstream.

Yet PennEast claims “no permanent impacts” from its project.

16) PennEast is unresponsive in defining how the proposed project would alter natural water flow or temperature.

On page 39 of the application, in addressing to requirements for a Special Permit within the floodplain on how the project would alter natural water flow or water temperature, PennEast is unresponsive to the requirement. The requirement is to document “*the degree to which*” the project would alter water flow or temperature. PennEast does not answer this question. Instead, the company states it “*will adhere to the Project’s E&SCP and the BMPs summarized in Section 4.1 and permit conditions to reduce the amount and duration of surface water disturbance*”. No where does PennEast actually quantify the degree to which any of the project would alter water temperature or water flow. It only states they will minimize it, which is not the question.

This is another common theme of PennEast. When asked to provide a measurement of the level of impacts, it instead responds that it will mitigate disturbances and provides no actual data.

17) PennEast is unresponsive in the degree to which natural, scenic, and aesthetic values could be retained

Later in the same section of the application, PennEast has the audacity to state “*Phase 1 is not anticipated to have any significant permanent visual impacts on federal or state listed visually sensitive areas, such as scenic roads, rivers, or natural landmarks as these features are not present in the Project area*”.

This statement by PennEast is astounding. The map shown in Figure 13 shows the first 40 miles of the project within the Delaware River Basin in Google Earth. The red line is the PennEast pipeline center line.

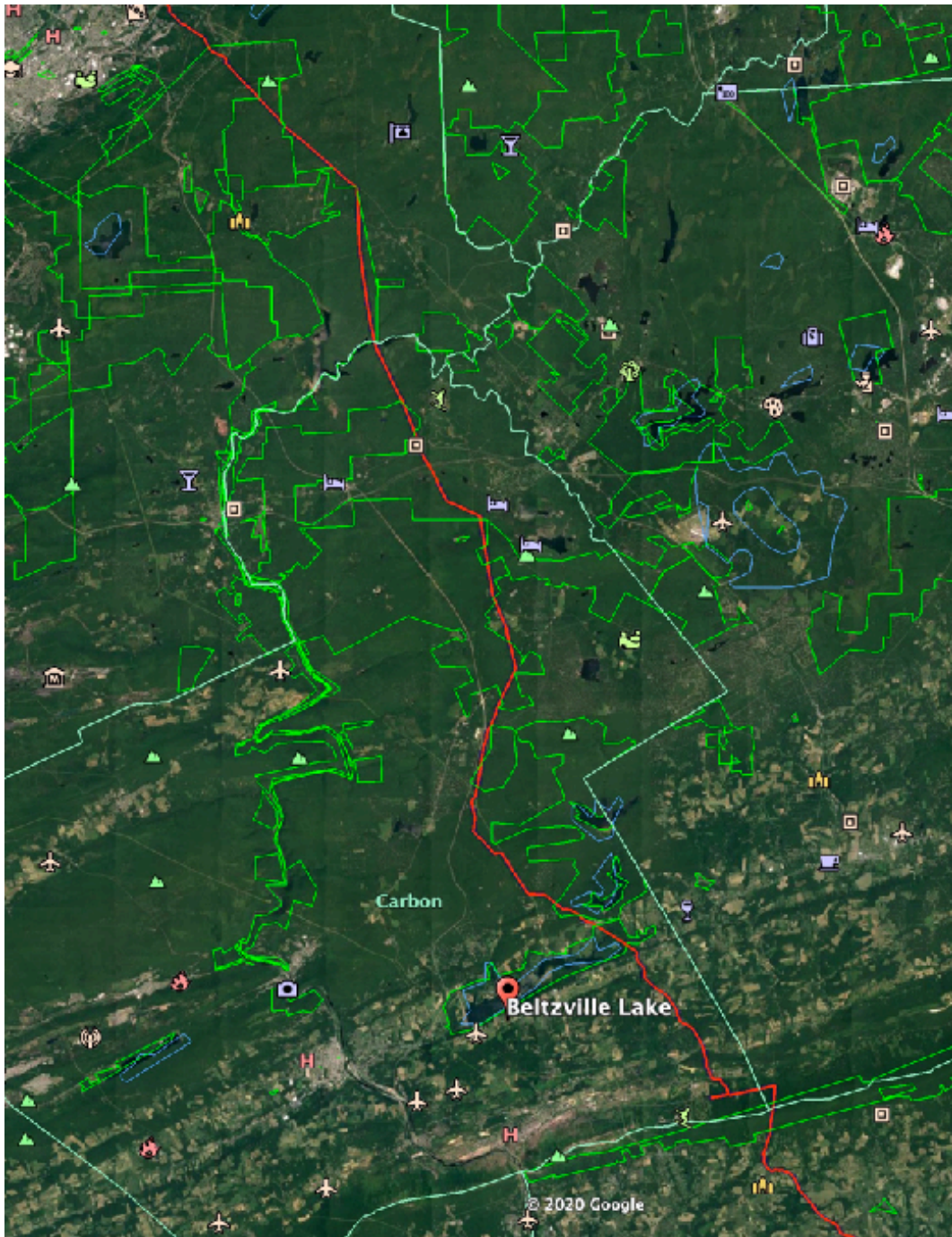


Figure 13 - Google Earth View of first 40 miles of PennEast route

This entire 40-mile portion of the pipeline route predominantly targets state parks, state game lands, reservoirs and surrounding conserved lands, and national historic and scenic areas such as the Appalachian Trail.



Figure 14 - Google Earth View, Approach to A.T., zero co-location in scenic area

Further, PennEast claims that they *"will minimize impacts to visual resources from construction of the pipeline segments by proposing to co-locate the pipeline with existing pipeline ROWs to the extent practical"*. As we can demonstrate, PennEast's concept of "co-location" does not match that of most environmentalists.

First, in many areas PennEast is not co-located at all.

Figure 14 shows the northern approach of the project to the Appalachian Trail at mile marker 49.5R3.

In other areas they are "co-located" with existing rights of way that are as small as 18' wide. Figure 15 shows part of a long stretch where they are co-locating alongside such an 18' existing right of way. In this area PennEast's construction will widen the cut by four times its current width. In this single view of just 1,500 linear feet of pipeline, PennEast will be clearing 3.7 acres of trees.



Figure 15 - Quadrupling the size of an existing cut through forests

18) PennEast has a history of non-cooperation with agencies.

Early in this set of comments we mentioned that PennEast has begun to refuse data requests from FERC around the purpose of its Phase 1 and Phase 2 pipelines. On Friday, June 19, 2020, FERC documented further evidence of un-cooperation from the company on the PennEast docket CP15-558-000¹⁹. The letter documented a dispute between PennEast and the New Jersey State Historic Preservation Officer (NJSHPO) regarding its project. Specifically, PennEast repeatedly disputed NJSHPO's comments about deficiencies regarding PennEast's area of potential effects (APE) review for view effects.

FERC notes that the process has been unnecessarily drawn out, saying "*a number of the concerns identified by the SHPO should have been easily resolved*". FERC then goes on to note that PennEast has not provided any information for some time, saying "*Since this September 2019 correspondence, PennEast has not provided any documentation of efforts on its behalf to satisfy the SHPO's request for additional materials and/or surveys for archaeological or architectural resources. It is clear the SHPO requires additional information to provide comments and, as a third-party representative, we expect PennEast to submit, in a timely manner, the information that the SHPO has requested*".

It is clearly unacceptable for an applicant to not communicate for 9 months on important agency questions. FERC adds, "*The SHPO's request to include a visual effects review at previously inaccessible areas within a revised APE appears to be warranted*".

FERC concludes with an admonition to PennEast that "***[it] is imperative that PennEast address its responsibilities as a third-party representative in the section 106 process***" [emphasis ours].

It is clear from this narrative that PennEast has attempted to evade its responsibilities under Section 106 consultations, and that the company further refuses to admit to clear visual impacts from its project. And when this failed, it tried to prevail by simply not responding anymore to the questions being raised.

Indeed, PennEast's actions and language in the Section 106 consultations will likely be oddly familiar to the DRBC staff and commissioners, as PennEast has likewise attempted to evade the DRBC's jurisdiction. It boldly claims there are "*no scenic roads, rivers, or natural landmarks*" along its route within the DRB, and that there will be "no permanent impacts" from its construction.

The NJ Department of Environmental Protection has likewise had similar issues with PennEast's lack of accuracy, poorly written applications, and attempted avoidance of responsibility for its project. To date, NJDEP has twice rejected PennEast combined permit applications as Administratively Incomplete.

¹⁹ Letter titled "RE: Section 106 Consultation for the PennEast Pipeline Project in New Jersey", A. Eric Howard, Chief Gas Branch 2, FERC, Docket CP15-558-000, accession 20200619-3024, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20200619-3024

19) PennEast’s special permit requirement response on not being a nuisance to other properties is not persuasive.

On page 35 of its application, under the DRBC floodplain special permit requirement that it not be a nuisance to other properties, PennEast states “*Through the implementation of the E&SCP, Site Restoration Plan, and Wetland and Riparian Restoration Plan, development and long-term maintenance activities for Phase 1 of the Project will not result in conditions that will become a nuisance to other properties*”. This is false and contradicted by PennEast’s own admission in the application. Throughout this application PennEast admits there will be multiple “*unavoidable impacts*” due to the large scale linear nature of the project, and that the E&SP plans attempt to minimize such impacts, but do not avoid them.

Specifically, PennEast’s project requires tree clearing within its construction ROW, and maintenance of a permanent ROW where no trees can grow. In many cases, documented in this set of comments, we show where this tree clearing would be performed on steep slopes. PennEast admits that these activities will impact the temperature or flow of water in these areas - which, by definition, would be a nuisance to other properties. In addition, it has been documented that friction within pipelines during their operation creates heat, which is dissipated into its surrounding environment. And finally, in many cases, PennEast is being forced to seize its lands via eminent domain takings. These would seem to easily meet the bar of being categorized as a “nuisance”, and then some.

20) PennEast is deceptive when addressing about runoff, erosion, and sedimentation.

On this question, PennEast states “*Workspace locations within flood hazard areas will be restored to their original site conditions*”. This is highly misleading. PennEast knows well that trees cannot be allowed to grow within the pipeline ROW. We have documented extensively where PennEast will be felling trees within the FEMA flood zone, and those areas will be permanently cleared. This is being carried out on steep slopes. These will absolutely increase runoff and erosion, and will likely lead to increased sedimentation in flood plain waterways.

Even within the temporary zone, there is no way PennEast will replace old growth forest with “new” old growth forest. The company can at best provide saplings. And historically, pipeline company tree plantings have not gone very well, as they are not in any way maintained or nurtured into full maturity.

21) PennEast repeatedly mis-states the state non-urban recreation areas it crosses.

In section 4.5 of its application, PennEast again misses many state non-urban recreation areas, identifying only Hickory Run State Park, Weiser State Forest, and Beltzville State Park. As documented elsewhere in this comment, it completely overlooks the numerous State Game Lands, as well as the Appalachian Trail.

22) PennEast's conclusion does not mention permanent ROW maintenance

As we have documented extensively, PennEast repeatedly refuses to recognize tree cutting and long term ROW maintenance as having permanent impacts.

They repeat this error in their conclusion of Section 5. Nowhere does PennEast indicate that the permanent ROW will be mowed and cleared regularly, and will be kept that way for 20 years or more. Hundreds of acres of trees in old growth forests will be cut down, and such growth will not be allowed along the linear track of 54 miles within the DRB. The PennEast pipeline will serve as a new, naked scar cut across the heart of the Basin.

23) PennEast fails to mention its most recent FERC Certificated route and Docket

PennEast fails to mention its current Certificated route under FERC is under docket CP19-78-000. It also amazingly fails to mention its current FERC docket, CP20-47-000.

24) PennEast's wetlands delineation map is misleading

Sheet 138 of its wetlands delineation map erroneously shows the ROW for Phase 2 of the project, which is misleading to readers.

25) PennEast's FEMA floodplain maps are misleading

This map, too, erroneously shows the Phase 2 ROW on sheet 10 of 10.

26) Appendix B1-1 contains large sections of Phase 2 that are not applicable here

This appendix documents in great detail sections of the Phase 2 pipe that are not applicable to this application, including the Hellertown Lateral, and phantom Bucks County impacts, which are not touched by the Phase 1 project at all.

27) Appendix B1-2 (worksheets 9-11) contains large sections of Phase 2 that are not applicable here

As with the previous comment, PennEast documents features such as the Hellertown Lateral and Bucks County impacts that do not apply to this application at all

28) Appendix 6 Soil Maps includes large sections that are not part of Phase 1

Again, the same problem - PennEast has mixed in Phase 2 portions of the pipeline which do not apply to this project.

29) Appendix B2 ESCP Cover Sheet is inaccurate

The map shown inaccurately shows portions of Phase 2 beyond the Church Road interconnects including the Hellertown Lateral and Bucks County route. In this case this is

highly misleading as it appears to show Phase 1 covering the entire route in Pennsylvania, but we know this is not the case.

30) Appendix B2 Alignment Index is inaccurate

This, too, shows several miles of the route in Northampton County and Bucks County that are not actually part of this project application.

31) The final ESCP cover sheet inaccurately portrays the Church Road site

This sheet shows boring under Route 33 and the route continuing on the Western Side of the highway, which is not accurate. The route terminates at Church Road.

32) PennEast's application materials are a hodge-podge of old and new materials

PennEast's appendices consist of a variety of materials PennEast has submitted to various agencies over time, in particular a mix of PA DEP and FERC materials, along with some new items for the DRBC.

These materials come from different timeframes in the life of the project, and as such reflect the state of the project as it has changed over time. PennEast has issued endless streams of route changes since it first applied to FERC, and the end result is these DRBC materials do not reflect a universal viewpoint of the current Phase 1 project, but instead represent varying snapshots in time. Some go back to the original Certificated Route. Others go to the second Certificated Route under FERC docket CP19-78-000. Some apply correctly to the current Phase 1 project, but still others are an odd mix of CP19-78-000 materials.

Sometimes PennEast shows impacts in Bucks County and Southern Northampton Counties that do not apply to Phase 1. The company shows varying views of the Church Road site. Parts of the application even show phantom New Jersey impacts.

This mishmash of materials demonstrate that PennEast did not prepare this application with care, but instead rushed to get something before the Commission in a desperate attempt to push forward their ridiculous timelines. The Commission should see this application for what it is - political theater with no real attempt to properly document this project and its impacts at all.

33) Table 3-3 Omits PFO wetlands

Table 3-3 is purported to have a summary of wetlands affected by construction and operation of Phase 1 within the DRB, and claims to show PEM, PSS, and PFO Cowardin Classifications. For the PennEast mainline, no PFO number is shown, and PSS shows up twice.

34) No table header for Table 2-2

PennEast fails to include column headings for table 2-2, leaving the public and Commission to guess what the meaning of the columns are.

36) Conclusion

We believe the extensive comments and documentation we have provided here have clearly shown several negative patterns within the PennEast application. Specifically:

1. The application has **many errors**. It is sloppily prepared and does not appear to have been reviewed properly for accuracy.
2. PennEast is clearly guilty of using a variety of techniques to collectively **lower its apparent impacts artificially**
3. PennEast **explicitly misleads** about impacts in several places, and does not acknowledge the scenic aspect of the landscape in the northern portion of its project.
4. PennEast has a **history** of trying to **evade regulatory oversight** by numerous agencies.
5. PennEast has **failed** to document **any tangible benefit** to the public from its project.
6. PennEast has **mixed** seemingly **random materials** from out of time to present a **patchwork** of an application to the Commission.

Due to the extensive set of issues with this application, we urge the Commission to reject this application with prejudice.

Sincerely,

Michael Spille, Chairman, West Amwell Township Environmental Commission
Bucks County Concerned Citizens Against the Pipelines
Holland Township Concerned Citizens Against the Pipeline
Lambertville Citizens Against the Pipeline
Save Carbon County
Sierra Club, New Jersey Chapter
West Amwell Citizens Against the Pipeline

cc:

Senator Bob Menendez, *United States Senator from New Jersey*

Senator Cory Booker, *United States Senator from New Jersey*

Dr. Ruth Foster, *Office of Permit Coordination and Environmental Review, New Jersey Department of Environmental Protection*

Federal Energy Regulatory Commission, Docket CP20-47-000

Representative Bonnie Watson Coleman, *U.S. House of Representatives, New Jersey's 12th District*

Representative Tom Malinowski, *U.S. House of Representatives, New Jersey's 7th District*

Representative Matt Cartwright, *U.S. House of Representatives, Pennsylvania's 8th District*

Representative Brian Fitzpatrick, *U.S. House of Representatives, Pennsylvania's 1st District*

Representative Susan Wild, *U.S. House of Representatives, Pennsylvania's 7th District*
Barbara Rudnick, *NEPA Program Coordinator, Office of Communities, Tribes & Environmental Assessment, United States Environmental Protection Agency*

State Senator Lisa Boscola, *Pennsylvania State Senate, 18th District*

State Senator Mario Scavello, *Pennsylvania State Senate, 40th District*

State Senator Kip Bateman, *New Jersey Senate, 16th District*

Senator Shirley Turner, *New Jersey, 15th District*

State Representative Joe Emrick, *Pennsylvania House of Representatives, 137th District*

State Representative Marcia Hahn, *Pennsylvania House of Representatives, 138th District*

State Representative Justin Simmons, *Pennsylvania House of Representatives, 131st District*