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June 9, 2006

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CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: Tennessee Gas Pipeline Company's Essex-Middlesex Project
PROJECT MUNICIPALITIES	: Saugus, Lynnfield, Wakefield
PROJECT WATERSHEDS	: Saugus River Watershed
EOEA NUMBER	: 13798
PROJECT PROPONENT	: Tennessee Gas Pipeline Company
DATE NOTICED IN MONITOR	: May 10, 2006

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR).

Project Overview

According to the Environmental Notification Form (ENF), the project involves construction of 7.81 miles of 24-inch pipeline, which will parallel and pass within the existing New England Power Company electric transmission right-of-way in Saugus, Lynnfield, and Wakefield. The right-of-way (ROW) traverses Priority Habitat and Estimated Habitat, Reedy Meadow, a federally designated national natural landmark, and a small area of the Golden Hills ACEC in Saugus and Wakefield. Two permanent facilities also are proposed: a new pig receiver at the northern terminus in Lynnfield and a tie-in assembly with the DOMAC Line in Saugus will replace the pig receiver at the southern end. According to the ENF, the pipeline will alter 61 wetland areas including 1,104,183 square feet of bordering vegetated wetlands, 227,299.97 square feet of riverfront, 65,103.34 square feet of bordering land subject to flooding, 7,805.08 square feet of land under water, and 2,932.24 linear feet of bank.

State Permits and Jurisdiction

The project will require a 401 Water Quality Certificate from the Department of Environmental

Protection (DEP); a Massachusetts Endangered Species Act Compliance from the Natural Heritage & Endangered Species Program (NHESP) of the MA Division of Fisheries & Wildlife; Orders of Conditions from the communities along the pipeline routes (and hence Superseding Order(s) from DEP if any local Orders were appealed); and Construction Permits from the Massachusetts Highway Department (MHD). The project will undergo review by the Massachusetts Energy Facilities Siting Board (EFSB). The project will also require the preparation of an Environmental Assessment (EA) pursuant to the requirements of the National Environmental Policy Act (NEPA) and review by the Federal Energy Regulatory Commission (FERC). MEPA jurisdiction extends to the broad subject matter of the state permits that the proponents are seeking. The project meets or exceeds mandatory EIR thresholds related to land alteration, wetlands alteration, and energy infrastructure. The project also meets review threshold related to rare species and Areas of Critical Environmental Concern (ACEC) resources.

Purpose of the MEPA Process

Several commenters have stated their opposition to the project due to the environmental impacts along the corridor. I do not have the authority to deny the project, or to act as an agent of appeal for local land use decisions. MEPA is not a permitting process. Rather, it is a process designed to ensure public participation in the state environmental permitting process, and to ensure that state permitting agencies have adequate information on which to base their permit decisions. The EIR process is meant to ensure that potential environmental impacts are described fully and avoided, minimized, and mitigated to the maximum feasible extent. The EIR process will not lead to a decision approving or disapproving the project or a specific route. Rather, it will ensure that environmental information is public, and any decisions made later by permitting agencies are based on sound environmental information.

SCOPE

General

The proponent should prepare the EIR in accordance with the guidelines contained in section 11.07 of the MEPA regulations, as modified by this scope. The EIR should include a copy of this Certificate and of each comment received. The proponent should circulate the EIR to those who commented on the ENF, and to any state agencies from which the proponent will potentially seek permits or approvals. In addition, the proponent should provide a reasonable number of copies free of charge on a first come, first served basis.

Comments

The review of the ENF has generated thoughtful and detailed comments from agencies, groups, and individuals. The EIR should contain commensurate responses, where necessary presenting additional narrative or analysis to respond to specific concerns. I recommend that the proponent use both an indexed response to comments format and direct narrative response, with a separate

volume of the EIR for comment letters and responses.

Alternatives

In addition to the proponent's preferred alternative, the EIR should analyze the no-build alternative to establish baseline conditions. The EIR should evaluate variations in the proponent's preferred route in an effort to minimize impacts, in particular documenting how the proponent has considered alternatives to minimize impacts on sensitive resources and sensitive receptors. Identification of potential route alternatives should focus on those natural resource areas that would be most significantly affected. In many cases, rerouting some sections of the pipe could significantly reduce or eliminate the need to disturb valuable wetland resources. The EIR should also contain alternatives that consider routes that would: 1) avoid Breakheart Reservation, 2) avoid Reedy Meadow, 3) avoid Golden Hills ACEC and 4) reduce the number of Saugus River crossings needed.

The alternatives analysis should demonstrate consistency with the objectives of MEPA review, among which is to document how the proponent intends to avoid, minimize, or mitigate Damage to the Environment to the maximum feasible extent. The EIR should fully explain any trade-offs inherent in the alternatives analysis, such as increased impacts on some resources to avoid impacts on other resources.

The EIR should evaluate any additional alternatives required by the state permitting processes. In particular, the EIR should evaluate the alternatives analysis required by the Wetlands Protection Act; the alternatives analysis required for Water Quality Certification; any alternatives analyses required by the EOEA Article 97 Policy; and, if applicable, the alternatives analysis required by the Massachusetts Endangered Species Act.

The construction period will be a major source of impacts from the project. The EIR should include a full analysis of alternative construction methods demonstrating consistency with the MEPA mandate to avoid, minimize, and mitigate Damage to the Environment to the maximum extent feasible.

Article 97

If the project results in an Article 97 disposition, the alternatives analysis discussed above should demonstrate that the proponent has satisfied the requirements of the EOEA Policy. The route described in the ENF passes through several areas protected by Article 97 of the Massachusetts Constitution. An easement through Department of Conservation and Recreation (DCR) property will trigger Article 97. Therefore, the proponent must follow guidelines of the EOEA and DCR land disposition policies which are available at the EOEA website. The EIR should identify all Article 97 lands impacted by the project, should identify the nature of the lands, and whether Commonwealth funds were expended for the lands.

Article 97 of the Massachusetts Constitution bespeaks the high value placed upon the preservation of existing open space lands, including lands subject to Conservation Restrictions. To further the Commonwealth's open space goals, EOEA's Article 97 Land Disposition Policy requires a demonstration that a proponent has explored all other options to avoid the Article 97 disposition, and that no feasible and substantially equivalent alternatives exist (monetary considerations notwithstanding).

Project Description and Permitting

The EIR should include a thorough description of the project, including a detailed routing description and description of construction methods. The EIR should also include a brief description of each state permit or agency action required or potentially required for the project, and should demonstrate that the project meets applicable performance standards. In accordance with Executive Order 385 (Planning for Growth) and section 11.01 (3)(a) of the MEPA regulations, the EIR should also discuss the consistency of the project with the local and regional growth management and open space plans. To the extent that information on need for the project will be required as part of the state permitting process, the EIR should include a demonstration of project need.

Land Alteration

The project as currently designed results in significant alterations to land. For each alternative, the EIR should quantify the amount and type of land altered, and the amount of earth work involved in meeting final grades. The EIR should investigate all feasible methods of avoiding, reducing, or minimizing impacts to land.

Wetlands/Water Quality

The EIR should identify the wetland resource areas (including any banks, intermittent streams, perennial streams, land under the water, bordering land subject to flooding, isolated land subject to flooding, and vernal pools) and buffer zones present within and immediately adjacent to the project corridor on a reasonably scaled plan. The EIR should identify the significance of the wetland resources present, including value to public and private water supply, flood control, storm damage prevention, prevention of pollution, riverfront area, and fisheries and wildlife habitat. The EIR should analyze both direct and indirect (i.e. changes in drainage patterns) impacts on wetlands resulting from the project. The EIR should demonstrate that the proponent has minimized impacts (to both on-site and adjacent off-site wetlands) to the maximum feasible extent. The EIR should explain which impacts would be temporary and which permanent. The EIR should investigate feasible mitigation for impacts, and including such measures as restoration of degraded wetlands in the project corridor.

The EIR should also contain plans depicting and quantifying wetlands replication areas and information on how altered wetland functions will be restored. The EIR should include a thorough discussion of impacts to wetlands from construction. A pipeline construction plan should be detailed to understand all aspects of pipeline construction and restoration that impact wetland vegetation, including at least the proposed surface vegetation and contours. Alternative construction techniques to minimize resource impacts need to be considered, and when construction methods with less impact are not selected, there should be a full accounting of the decision in the EIR. The EIR should address erosion and sedimentation control measures and other measures that will be taken to protect water quality during construction. The sections of new rights-of-ways (ROW) and expanded ROWs for this project should be identified in the EIR to show differences in the widths of the maintained rights-of-ways in these areas. A revegetation plan for wetlands in the permanent and temporary easement ROWs and a mitigation plan for unavoidable impacts to wetlands also should be provided in the EIR. The proponent should consider onsite monitoring by a wetlands specialist during construction of the pipeline.

ACEC

The proposed project is adjacent to and partially within the Golden Hills Area of Critical Environmental Concern (ACEC). Any wetland impacts in the ACEC should be avoided to the maximum extent possible. If impacts are unavoidable, adequate wetlands restoration and mitigation should be implemented. The EIR should also explain how the project would comply with the performance standards in the wetlands regulations, including ACEC, if applicable; and demonstrate that alteration of resource areas has been avoided and minimized. Where opportunities exist, consideration should be given to project alternatives and site design changes to demonstrate fully that the project conforms to the wetlands regulations.

Rare Species

The proposed pipeline route crosses through several areas of known rare species habitat. The following species are documented within or in close proximity to the proposed project:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Carex livida var. radicaulis</i>	Glaucous Sedge	Plant	Endangered
<i>Itame sp. 1 nr. inextricata</i>	Pine Barrens Itame	Moth	Special Concern
<i>Ambystoma laterale</i>	Blue-spotted Salamander	Amphibian	Special Concern
<i>Hemidactylum scutatum</i>	Four-toed Salamander	Amphibian	Special Concern
<i>Clemmys guttata</i>	Spotted Turtle	Reptile	Special Concern
<i>Terrapene carolina</i>	Eastern Box Turtle	Reptile	Special Concern
<i>Accipiter striatus</i>	Sharp-shinned Hawk	Bird	Special Concern
<i>Gallinula chloropus</i>	Common Moorhen	Bird	Special Concern
<i>Rallus elegans</i>	King Rail	Bird	Threatened
<i>Botaurus lentiginosus</i>	American Bittern	Bird	Endangered

Field surveys have been initiated by the proponent to assess potential habitat for the species listed above throughout the proposed project area. Once the NHESP has received the survey results, habitat assessments, and any other requested information we will determine whether the proposed project will result in a "take" of state-listed species. The EIR should include the survey results and results of the discussions with NHESP.

The EIR should include an inventory to determine which areas of the project corridor may constitute suitable habitat for rare species known to occur in the project area. The EIR should present the results on an appropriately scaled map, with clear identifications of the designated habitat. The EIR should evaluate potential impacts to rare species (including indirect impacts from runoff into priority and estimated habitat).

Construction

Construction impacts from the project will likely constitute the most significant impacts from the project. The EIR should include a section that summarizes all construction period impacts and mitigation. The EIR should also evaluate any impacts from maintenance of the pipeline and associated infrastructure. The proposed project will require a large amount of blasting or other types of rock removal. I note the comments requesting a geotechnical analysis on the effects of blasting on the artesian wells along the corridor. The proponent should consult with DEP to determine if this analysis is needed and if so the EIR should present this analysis. I also strongly advise the proponent to consult with the towns and DEP to ensure that the project will meet all performance standards associated with all proposed project construction activities.

Water Supply Protection

The upper portions of the Saugus River watershed provide drinking water for the City of Lynn. Water from the Saugus River, immediately downstream of Reedy Meadow is diverted into Lynn's drinking water reservoirs via the Lynn Water and Sewer Commission (LWSC) Dam and canal located on the Wakefield/Lynnfield line adjacent to the Sheraton Colonial in Wakefield. The EIR must address the potential significant negative impact of installing a new gas line within the City of Lynn's drinking water supply source, which is also not consistent with the City of Lynn's Water Supply Protection Plan submitted to DEP.

Visual Impacts

The EIR should quantify the number of mature trees that will be removed throughout the 7.8 mile route. The proponent should strongly consider replacing trees that are removed from the 50-70 foot temporary construction right of way to buffer the abutting homes from the transmission lines as they do now in a preconstruction state.

Archaeological Resources

The proponent should consult with the Massachusetts Historical Commission to ensure that the project will avoid, minimize, or mitigate any adverse effects to National Register-eligible properties. The EIR should contain results of these discussions.

Mitigation/Section 61

The EIR should include a summary of all mitigation measures to which the proponent has committed, including mitigation for construction period impacts. The EIR should also contain Proposed Section 61 Findings for use by the state permitting agencies.

June 9, 2006

Date


Stephen R. Pritchard

Comments received:

05/26/06	Janet Leuci, Saugus Town Meeting Member (1 st Comment)
05/26/06	Timothy Hawkins (1 st Comment)
05/29/06	Janet Leuci, Saugus Town Meeting Member (2 nd Comment)
05/30/06	Department of Environmental Protection, NERO
05/30/06	Saugus River Watershed Council
05/30/06	Timothy Hawkins (2 nd Comment)
05/30/06	MA Division of Fisheries & Wildlife, NHESP
05/31/06	Massachusetts Historical Commission
06/01/06	Department of Conservation and Recreation, ACEC Program
06/01/06	Town of Saugus Conservation Commission
06/02/06	Department of Conservation and Recreation, Resource Management Planning Program
06/05/06	Executive Office of Transportation, MHD

SRP/ACC/acc