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PIPE LINE AWARENESS NETWORK
FOR THE **NORTH EAST, INC.**
www.plan-ne.org

June 25, 2020

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20216

**Re: Docket No. CP19-7-000, TGP 261 Upgrade Projects (the “Projects”)
Opposition to granted NTP; request Commission suspend NTP**

Dear Secretary Bose:

The Pipe Line Awareness Network for the Northeast (“PLAN”) hereby submits its Opposition to the approved Notice to Proceed (“NTP”) with construction, granted to Tennessee Gas Pipeline Company, LLC (“Tennessee” or “TGP”) in the above-referenced docket on June 19, 2020.

In PLAN’s opposition to Tennessee’s NTP Request, we noted the unjustified departure from the company’s previously stated position—that it would, at a minimum, wait to file such a request until after the outstanding Conditions of the 401 Water Quality Certification (“WQC”) had been satisfied. The NTP Request confirmed that Condition Nos. 31 and 32 had not been satisfied. The NTP Request stated “Tennessee anticipates satisfying Conditions Nos. 31 and 32 by June 18, 2020 and will supplement this NTP request when the outstanding WQC conditions are satisfied.” No supplement was filed prior to the Commission’s granting of the NTP on June 19, 2020 the day after Tennessee anticipated satisfying the Conditions.

Tennessee has now filed its first Weekly Status Report¹ following the NTP granting. In this latest report, the company has changed its qualifier claim regarding the unmet WQC Conditions Nos. 31 and 32 to say, “Tennessee will not commence construction in areas within WOTUS until the Conservation Restrictions are recorded and the Section 401 WQC conditions are satisfied,” moving the goalposts just a little bit more to the company’s advantage. The WQC states that the project’s “proposed activities will result in the discharge of dredged or fill material into **259,890**

¹ “Weekly Status Report (June 14 - 20, 2020)” available at http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20200624-5137

square feet of ‘Waters of the United States with the Commonwealth’², no small area to simply avoid.

We note that Tennessee also has failed to obtain the required MESA Conservation and Management Permit for the ‘Take’ of state-listed species, the Eastern Box Turtle and Eastern Worm Snake. Tennessee stated in its July 2019 Final Environmental Impact Report that “no work will be undertaken within priority habitat until the Division has made a final determination on the Conservation & Management Permit”.³ At that time, Tennessee anticipated five months between the submission of its MESA plan and a final MESA determination.⁴ The NTP Request filing indicated that the MESA plan was submitted on June 10, 2020—the same day as the NTP Request.

Will Tennessee next claim they will avoid both WOTUS and priority habitat areas along the construction route as a means of “complying” with permits with which they have failed to comply? Rather than allowing TGP to whittle away at the requirements of the Certificate, the Commission should not allow construction until TGP has fulfilled all conditions of the Certificate as granted.

WHEREFORE, for the foregoing reasons, PLAN respectfully requests that the Commission *suspend* the granted NTP until such time as all required permit prerequisites have been met. No other action will guarantee Tennessee will be inspired to comply.

Respectfully submitted,



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² Water Quality Certification, page 3, contained in Attachment 2 of “Line 261 Projects Implementation Plan” available at <https://elibrary.ferc.gov/IDMWS/common/opennat.asp?fileID=15468391>

³ Id., Table 9-1. Response to Comments from Massachusetts Division of Fisheries and Wildlife (February 25, 2019), Page 9-4.

⁴ <https://elibrary.ferc.gov/IDMWS/common/opennat.asp?fileID=15306101>, Table 6-1. Permits, Approvals, and Consultations Required for the 261 Upgrade Projects. Page 6-3.