



Ocean Advocacy
Since 1984

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August 15, 2025

RE: Clean Ocean Action Comments to the New York State Department of Environmental Conservation on the Queens and Richmond County - Northeast Supply Enhancement Project Permits

Via Directed Email: DEPEnergy@dec.ny.gov

Ms. Sandrow,

Thank you for the opportunity to again comment on the Queens and Richmond County - Northeast Supply Enhancement Project permit applications. These comments are submitted by Clean Ocean Action. Clean Ocean Action (COA) is a broad-based coalition of 115 conservation, environmental, fishing, boating, diving, religious, student, surfing, women's, business, civic and community organizations dedicated to the improvement of water quality and defending the marine ecosystem in the region from Montauk, NY to Cape May, NJ.

*COA urges the New York Department of Environmental Conservation ("NYDEC") to uphold your steadfast rejection of this of this project. Nothing has changed. There are no new modifications or information that would cause NYDEC to reevaluate or reconsider their long-standing denial of this project. Thus, COA calls on the NYDEC to again deny William/Transco's permits for both the (1) Water Quality Certificate pursuant to Section 401 of the Clean Water Act, and (2) Excavation and Fill under New York State Environmental Conservation Law for the Northeast Supply Enhancement Project ("NESE") **with prejudice.***

In addition to noncompliance with state regulations, this project will harm New York's endangered marine mammals. Under New York State Law¹, New York aims to protect endangered species in state lands and waters. The NESE project will have direct impacts on several endangered whale species. Transco has requested an incidental harassment authorization

¹ Title 6 New York Codes, Rules and Regulations [NYCRR] 182.1-182.16

(IHA) for 10,616 takes of marine mammals.² This includes the North Atlantic Right Whale, Sei whale, and Humpback whale, which are listed as endangered in both New York and the federal government. This is unacceptable and incompatible with New York's mandate to protect its endangered species.

This first started in 2019 when the Federal Energy Regulatory Commission (FERC) issued a certificate of approval for the NESE project without conducting a thorough assessment of the project's necessity. Transco then applied for the necessary state permits and was denied these permits, specifically the water quality certificate, *three* times. The first time being on June 27, 2017. NYDEC denied the application without prejudice in a letter dated April 20, 2018. The basis for the denial was a combination of a lack of sufficient information to review the application and based on the lack of information and inability to proceed with the necessary public process for review. The second time being May 16, 2018. The project was denied – again without prejudice – in a letter dated May 15, 2019. The denial was based on violations to the New York State water quality standards, failure to properly mitigate the environmental impacts associated with dredging, and impacts to shellfish, fish, and marine life propagation and survival. The most recent time being just 48 hours after the second denial on May 17, 2019, which again was denied due to the inability of the project to meet NY's water quality standards. Transco neither challenged the water quality denials nor revised the project design to address the concerns raised by the two agencies. Nevertheless, the company remained committed to pursuing the project and obtained a two-year extension from FERC in May 2021. FERC then granted an extension until May 3, 2024.

On May 29, 2025, Transco filed a petition with FERC seeking reissuance of its certificate of public convenience and necessity, as amended, authorizing Transco to construct and operate as previously approved.³ In this petition Transco cites President Trump's executive order released on January 20, 2025, declaring a national "energy emergency" as justification for restarting the NESE project.⁴ This order directs agencies to "identify and use all relevant lawful emergency and other authorities available to them to expedite the completion of all authorized and appropriated infrastructure."⁴ In addition to this FERC petition, on May 30, 2025, Transco re-filed its permit applications in both New Jersey and New York to begin construction of the project by the end of 2025.

Even before this most recent attempt to restart the project, it was made clear that this pipeline is not needed. Three key reports show how unnecessary this pipeline really is. In April of 2020, the Synapse Economic Energy Report found there is no demonstrable supply-and-demand-gap that

² *Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Northeast Supply Enhancement Project in Raritan Bay, Lower New York Bay, and the Atlantic Ocean*, 90 Fed. Reg. 38104 (Aug. 7, 2025).

³ Transcontinental Gas Pipeline Co., LLC; Notice of Petition and Establishing Intervention Deadline, 89 Fed. Reg. 24,272 (June 9, 2025).

⁴ Exec. Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025)

could justify NESE or any other large-scale gas infrastructure projects.⁵ The Institute for Energy Economics and Financial Analysis report also found that there is no public need for the NESE pipeline and that the National Grid utility's contract for the pipeline would have required ratepayers in Long Island, Brooklyn, Staten Island and most of Queens to pay \$193 million a year for 15 years.⁶ The National Grid identified in its "Long-term Capacity Report" an alternative for natural gas services, including a clean energy, no-infrastructure alternative, that did not require construction of a new pipeline.⁷ All of these show that the power is not needed where it is going.

Despite this, multi-billion-dollar corporations are again seeking to exploit New York's invaluable environmental resources under the pretense of serving the state's energy needs. Past permit denials and clear opposition to this pipeline construction from various citizen, economic, and environmental groups, show the region's resistance to continued reliance on fossil fuels for years to come.

NYDEC has been outstanding in the protection of NY's natural resources. Transco admits that they are "now resubmitting its application as it existed at the time of the Denial with substantially the same information."⁸ Thus, COA urges you to stand strong and deny the (1) Water Quality Certificate pursuant to Section 401 of the Clean Water Act, and (2) Excavation and Fill under New York State Environmental Conservation Law for the NY portions of NESE. It is also necessary for NYDEC to deny these permits *with prejudice* to end the applicants' repeated attempts to violate established standards and regulations created for the protection and preservation of our shared marine environment.

As these permits and the scope of the project have not changed COA reiterates the statutory reasons these permits should be denied and supports NYDEC's past denial of this project.

⁵ Takahashi, K., Hopkins, A., White, D., Kwok, S., Garner, N., & Rosenkranz, J. (2020, April 15). *Assessment of National Grid's long-term capacity report: Natural gas capacity needs and alternatives* (Revised April 15, 2020). Synapse Energy Economics, Inc. Prepared for the Eastern Environmental Law Center. <https://www.synapse-energy.com/sites/default/files/Synapse-final-report-for-EELC-%28April-15-Revision%29-20-023.pdf>

⁶ Mattei, S., Sanzillo, T., & Stix, M. (2020, April). *Proposed NESE gas pipeline in New York: A bad bargain for ratepayers and taxpayers – Modern energy planning would be a better approach* (Institute for Energy Economics and Financial Analysis). https://ieefa.org/sites/default/files/resources/Proposed-NESE-Gas-Pipeline-a-Bad-Bargain_April-2020.pdf

⁷ National Grid. (2020, May). *Natural gas long-term capacity supplemental report*.

⁸ Transcontinental Gas Pipe Line Company, LLC. (2025, May 30). *Northeast Supply Enhancement Project – Application for permits under Article 15, Title 5, Article 11, Title 5, and Article 17 of the Environmental Conservation Law and Water Quality Certification under Section 401 of Clean Water Act* [Letter to Karen M. Gaidasz, NYSDEC].

The NYDEC Must Deny the Applicant's Water Quality Certificate Under Section 401 of the Clean Water Act

The NYDEC must deny Williams/Transco's application for a Water Quality Certificate because the proposed project will continue to impair the best usage of the Lower New York Bay and the Raritan Bay and therefore violate the state's Water Quality Standards. The department has denied this permit before and since these permits are nearly identical to those filed in 2019, the department should not renege on this sound reasoning. As stated in the 2019 denial, Transco is unable "to demonstrate the Project's compliance with all applicable water quality standards. To obtain a WQC from the Department, an applicant must, among other requirements, demonstrate compliance with State water quality standards. See 6 NYCRR § 608.9."⁹

Legal Background

Under Section 401 of the Clean Water Act, any application for a federal permit for a project that may result in any discharge into the navigable waters must receive a certification from the State in which the discharge originates.¹⁰ Section 401, gives the state the ability to certify, certify conditionally, or deny certification. A denial of certification prohibits the federal permit or license from being issued.¹¹

The decision to deny, certify, or condition a permit is based in part on the proposed project's compliance with EPA-approved state water quality standards. In addition, the state must consider whether the activity leading to the discharge will comply with any applicable effluent limitations, new source performance standards, toxic pollutant restrictions, and other appropriate requirements of state law.¹²

State certifications under Section 401 are essential to ensure clean water quality standards are met.¹³ Furthermore, the Section 401 Certifications work to preserve the state's authority to address a broad range of pollution.¹⁴ The central goal of the Clean Water Act, and Section 401 was to achieve water quality that is both "fishable" and "swimmable" by the mid-1980s. While obviously this date has long passed, the goal remains and efforts to attain it continue. Neither Raritan Bay, nor Lower New York Bay, achieves the fundamental goal of fishing and swimming, despite recent improvements. Approval of the NESE Project will degrade the water quality below current levels, which already fails to meet the overarching goal of the Clean Water Act.

⁹ New York State Department of Environmental Conservation. (2020, May 15). *Notice of Denial of Water Quality Certification – Northeast Supply Enhancement Project (DEC ID: 2-9902-00109/00006)*. Albany, NY: NYSDEC. Retrieved from https://extapps.dec.ny.gov/docs/permits_ej_operations_pdf/nesewqcd denial05152020.pdf

¹⁰ CWA §401(a)(1); 33 USC 1341(a)(1).

¹¹ CWA §401(a)(1); 33 USC § 1341(a)(1).

¹² CWA §401(d); 33 USC 1341(d).

¹³ S. D. Warren Co. v. Maine Board of Environmental Protection et al, 547 U.S. 370, 126 S.Ct. 1843 (2006)

¹⁴ *Id.*

For the DEC to approve Williams/Transco's application for a Water Quality Certificate, the proposed activity must comply with New York State water quality standards set for in 6 CRR-NY 701 to 6 CRR-NY 704.¹⁵ The proposed project does not comply with the water quality standards, and therefore the permits must be denied.

The proposed project will violate the designated best usage of the Lower New York Bay and the Raritan Bay; therefore, the Water Quality Certificate must be denied.

Under New York law, a water quality certificate cannot be issued if the discharge will cause impairment of the best usage of the receiving waters as specified by the water classifications.¹⁶ The best usage of the receiving waters is determined by the DEC classification of the water body. The DEC has classified Lower New York Bay as SB Coastal Recreational Waters.¹⁷ The Raritan Bay is classified as a Class SA waterbody.¹⁸

Water bodies classified as SA and SB indicate a best usage for shell fishing for market purposes, swimming and other recreation activities, and fishing.¹⁹ Moreover, waterbodies classified as SA and SB are required to be suitable for fish, shellfish and wildlife propagation and survival.²⁰ Currently, both the Lower New York Bay and the Raritan Bay are considered impaired under Section 303(b) of the Clean Water Act for failure to meet at least one indicated best usage.²¹ Both waterbodies have been listed as impaired since 2002.²² A major contributor to the impairment of both waterbodies is toxic and contaminated sediment.²³ The sediment of both bays is known to be contaminated with PCBs dioxins/furans, PAHs, pesticides and heavy metals such as arsenic, lead, zinc and mercury.²⁴

For the Lower New York Bay, the NYDEC has specifically acknowledged that an "assessment and reduction of contaminated sediments is a critical priority."²⁵ Fish consumption in the Lower New York Bay is considered impaired, primarily because of PCB and dioxin contamination in sediment which has worked its way into the food chain. Raritan Bay is also considered impaired and shell fishing is not permitted due to potential health risks. Shellfish that grow in contaminated waters can accumulate disease-causing microorganisms (bacteria, viruses) that can

¹⁵ 6 CRR-NY 608.9.

¹⁶ 6 CRR-NY 701.1.

¹⁷ 6 CRR-NY 890.6.

¹⁸ *Id.*

¹⁹ *See*, 6 CRR-NY 701.10 and 6 CRR-NY 701.11.

²⁰ *Id.*

²¹ New York Department of Environmental Conservation, Raritan Bay/ Lower Bay Watershed. https://www.dec.ny.gov/docs/water_pdf/wiatllisrblb.pdf.

²² *Id.*

²³ *Id.*

²⁴ New York State Department of Environmental Conservation, 2018 Section 303(d) List of Impaired Waters Requiring a TMDL/Other Strategy. (June 20, 2018).

²⁵ *Id.*

be eaten with the shellfish. Similarly, fish consumption in the bay is also considered to be impaired.

Both Bays support a robust diversity of marine life including striped bass, bluefish, winter flounder (a particular species of concern), fluke and weakfish. Significant improvements to the water quality of the Bays since the late 1990s has been noted primarily due to the Contaminant Assessment and Reduction Program (CARP) and the implementation of more restrictive guidelines for the disposal of dredged materials from New York Harbor.²⁶ The approval of this massive project would see the recent improvements undone as large scale disturbances of the seafloor will occur, re-suspending toxic contaminants.

However, while impairments exist, improvements to both water quality and marine life are well documented. Both the Raritan and Lower New York Bays are steadily moving closer to the established goals of the Clean Water Act. The approval of this project will see the improvements negated and the progress reversed.

The impacts to the water quality of both the Raritan Bay and the Lower New York Bay will be significant and will result in unnecessary prolonged impairment and degradation of the water quality. The project will see years of steady improvement negated and reversed. Laying a 26-inch diameter pipeline in a 23.5-mile-long trench below the seafloor is extremely disruptive and will result in a severe decline in the quality of the water in both bays and threaten the large variety of marine wildlife that call it home.

First, 1,091,734 cubic yards of sediment, known to include harmful pollutants, would be excavated or otherwise suspended into the water column during the offshore pipeline installation.²⁷

However, even more sediment will be disrupted as a result of construction vessels anchoring, and using other techniques such as lift legs.²⁸ Dredging up these buried industrial toxins (such as the above-mentioned arsenic, lead, zinc and mercury) and organic compounds (PCBs, DDT, dioxins) from the seabed will drastically reduce the water quality of these steadily improving waterways. According to the Final Environmental Impact Statement (FEIS) produced by the Federal Energy Regulatory Commission, 83 percent of the sample sites along the proposed pipeline route had contamination in excess of New York State Water Quality standards for an inorganic (metal) threshold.²⁹ Moreover, the FEIS also found the multiple samples exceeded upper-level effect

²⁶ New York State Department of Environmental Conservation, Raritan Bay/Lower Bay Watershed. Available at https://www.dec.ny.gov/docs/water_pdf/wiatllisrblb.pdf

²⁷ FEIS at 4-106.

²⁸ *Id.*

²⁹ FEIS at 4-121

thresholds for heavy metals (e.g., copper, lead, zinc, mercury).³⁰ These included exceedances for mercury at one site; lead and mercury at one site; lead, zinc, and mercury at two sites; and copper, lead, and mercury at one site.³¹

The direct impacts from the re-suspension of the toxic-laden sediments into the water column include:

- Mortality, injury, or temporary displacement of the organisms living on, in, or near the seafloor. The re-suspended toxic sediments, once in the water column, will clog fish gills and obscure visual stimuli.
- The redistribution of sediments that fall from suspension, will bury benthic and demersal species, resulting in mortality of eggs and other life stages, including the federally endangered winter flounder which spawn in shallow, inshore waters in the project area (The FEIS specifically notes that eggs and larva of this species could be directly affected by excavation or by smothering in toxic-laden sediments during construction – FEIS 4-118);
- Bottom-dwelling fish species in or near the excavation will be significantly harmed.³²

Second, an extensive portion of both the Raritan and Lower New York Bays will be directly impacted. The applicant intends to disturb over 14,000 acres.³³ Again, it is known that the major contributor to the impairment of both waterbodies is contaminated sediment. The applicant intends to impact and disturb a significant portion of each bay, further re-suspending sediment from vessel travel, heavy equipment, and other activities.

Third, the applicant intends to discharge over 690,000 gallons of drilling fluid into the water. Transco has indicated that it will use biocides, such as bentonite and others, which will contaminate the water quality and impact the food chain, increasing the impairment for fishing and shell fishing in these areas.³⁴ The FEIS indicates that the specific additives which will be used in the drilling fluid are not yet known. In addition to the known chemicals which will be in the drilling fluids, there are also numerous unknown chemicals as well. At the time of the FEIS, Transco was “working with its contractors to finalize the specific additives that would be used in HDD construction.”³⁵ How can the impacts to the water quality of these already impaired waterbodies be understood when the specific chemicals discharged in them are unknown?

³⁰ *Id.*

³¹ *Id.*

³² FEIS at 4-107.

³³ FEIS at ES-10

³⁴ FEIS at 4-126

³⁵ FEIS at 4-151

Therefore, due to the re-suspension of toxic sediment, the disruption of over 14,000 acres of the bays, as well as the discharge of chemical-laden drilling fluid, the proposed project violates the general conditions applicable to all waterbodies set forth in 6 CRR-NY 701.1, the project must be denied. Both the Raritan and Lower New York Bays are already determined to be impaired and fail to meet at least one designated best use. Approval of this project will see other uses, such as recreation impaired, and will further impair fishing and shell fishing activities.

The NYDEC Must Deny the Applicant's Excavation and Fill Permit

The NYDEC must deny the applicant Williams/Transco's application for an excavation and fill permit because the project fails to meet the requirements established by the New York State Environmental Conservation Law and its implementing regulations.

Under Section 15 Title 5 of the New York State Environmental Conservation Law, no person may "excavate or place fill below the mean high water level in any of the navigable waters of the state" without a permit.³⁶ Only upon a determination that the proposal is in the public interest may a permit for excavation and fill be issued by the DEC. Specifically, the proposal must (1) be reasonable and necessary, (2) not endanger the health safety or welfare of the people of the State of New York, and (3) not cause unreasonable, uncontrolled or unnecessary damage to the natural resources of the State, including soil, forests, water, fish, shellfish, crustaceans and aquatic and land-related environment.³⁷ The proposed NESE project fails to meet any of the above-mentioned requirements and therefore must be denied.

The Proposed Project is not "Reasonable and Necessary."

There is no reasonable and necessary justification for such a destructive project and according to New York State law, the project must be denied.³⁸ The proposed project fails to indicate an adequate justification for the alleged need for a new methane-natural gas supply to New York.

The alleged purpose of Williams/Transco's Proposed NESE pipeline is to "provide 400,000 Dth/d of incremental natural gas capacity to National Grid at the Rockaway Transfer Point."³⁹ The alleged need for the "incremental" amount of natural gas is unfounded. The projected increased demand is based on an assumption of fuel switching within National Grid's service territory from home heating oil to natural gas.⁴⁰ However, absent a claim by National Grid, a natural gas monopoly that has a vested interest in continuing and expanding the reliance and

³⁶ New York Environmental conservation Law, § 15-0505.

³⁷ 6 CRR-NY 608.8

³⁸ 6 CRR-NY 608.8(a)

³⁹ FEIS at ES-1

⁴⁰ FEIS at 1-3

consumption of natural gas within New York City and Long Island, there is no indication that the alleged fuel switching will occur.

Moreover, Williams/Transco requested that the supporting market data be kept from the public record because it contains “confidential commercial information” from National Grid. Therefore, the alleged increased need and demand is not factually supported.

While it is true that the proposed Raritan Loop would augment the capacity of a portion of Transco’s Lower New York Bay Lateral (LNYBL), the project would not increase the capacity of the two onshore pipelines (the Rockaway Lateral and the portion of the LNYBL to the east of the Rockaway lateral) that supply gas to consumers in National Grids Service Territory. Therefore, there is no indication that this new supply of natural gas can be handled by the end line transmission pipelines.

The LNYBL is the end of the line for an interstate system designed to move over 15 million dekatherms of natural gas per day. However, the Rockaway Lateral – the pipeline where Transco says the additional capacity will flow through – can only handle a capacity of 647,000 dekatherms per day. Therefore, it is unclear that (1) the latter can handle an increased supply of 400,000 dekatherms of natural gas per day, and (2) there is not sufficient capacity through existing pipelines to supply the proposed need. If the latter is not capable of handling such a drastic increase in capacity, then the project will serve no reasonable purpose. If the project can handle the increased capacity, it has yet to be shown that existing infrastructure cannot meet the alleged increase in demand.

The Project will Endanger the Health, Safety and Welfare of the People of the State of New York

The installation and operation of 23.5 miles of an underwater pipeline that will rip-apart the Raritan and Lower New York Bays will have significant negative effects on the health, safety, and welfare of the People of the State of New York, and therefore the project must be denied.

First, the project will continue to exacerbate climate change and increase the severity and intensity of the impacts associated with it.

To be clear, there is nothing clean about natural gas. Over the lifecycle of natural gas (mining, transport, and use for electric power/heating) it produces a great deal of harmful pollutants that “result in at least 60-80 times more carbon-equivalent emissions and air pollution mortality per unit of electric power generated than does wind energy over a 100-year time frame.”⁴¹

⁴¹ Jacobson, Mark Z., *et al.*, 2013. Examining the feasibility of converting New York State’s all-purpose energy infrastructure to one using wind, water, and sunlight, *Energy Policy*, 57: 585-601.

The resulting impacts from climate change will be particularly harmful to the People of the State of New York. The impacts of climate change are real and already being felt throughout the state. Continued allowance of projects which will see the State locked into years of fossil fuel consumption will have significant impact on the residents of New York. Specifically, impacts from stronger and more frequent storms, sea level rise, prolonged and severe flooding, and associated health risks, will significantly impact residents.

Hurricane Irene and Sandy illustrated the severity that stronger storms can have on the State. Flash flooding washed out roads and bridges, undermined railroads, brought down trees and power lines, flooded homes and businesses, and damaged floodplain forests. Hurricane Sandy was responsible for about 150 deaths, approximately half of which occurred in the Northeast.⁴² Damages, concentrated in New Jersey, New York, and Connecticut, were estimated at \$60 to \$80 billion, making Sandy the second most costly Atlantic Hurricane in history behind Katrina.⁴³ It is also estimated that 650,000 homes were damaged or destroyed, and that 8.5 million people were without power.⁴⁴ Floodwaters inundated subway tunnels in New York City.

In New York State, two feet of sea level rise is estimated (absent adaptation investment) to flood or render unusable 212 miles of roads, 77 miles of rail, 3,647 acres of airport facilities, and 539 acres of runways.⁴⁵ Sea levels along New York's coast have already risen more than a foot since 1900.⁴⁶ New York's rate of rise (about 1.2 inches per decade) is almost twice the observed global rate (0.7 inches per decade) over the same period.⁴⁷ By the 2050s, sea level is expected to be as much as 30 inches (2.5 feet) higher in New York's coastal area, as compared with sea level averaged for 2000-2004. By 2100, New York's coast could see up to 6 feet of sea-level rise.⁴⁸ New York is extremely vulnerable to the impacts of sea-level rise, including storm surge and coastal flooding. Between 1958 and 2010, the amount of precipitation falling in very heavy events (downpours) increased more than 70% across the northeastern United States.⁴⁹

Climate impacts will also significantly harm human health. Temperature related climate impacts include premature death and hospitalization due to increased temperatures. One recent study projected that temperature changes alone would lead to a 50% to 91% increase in heat-related

⁴² Blake, E. S., T. B. Kimberlain, R. J. Berg, J. P. Cangialosi, and J. L. Beven, II, 2013: Tropical Cyclone Report: Hurricane Sandy. (AL182012) 22 – 29 October 2012. 157 pp., National Oceanic and Atmospheric Administration, National Hurricane Center.

⁴³ NOAA, 2013: Billion Dollar Weather/Climate Disasters, List of Events. National Oceanic and Atmospheric Administration.

⁴⁴ *Supra* 25.

⁴⁵ DOT, 2008: The Potential Impacts of Global Sea Level Rise on Transportation Infrastructure – Part 1: Methodology. Center for Climate Change and Environmental Forecasting, U.S. Department of Transportation, Washington, D.C.

⁴⁶ Department of Environmental Conservation, Impacts of Climate Change. <https://www.dec.ny.gov/energy/94702.html>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

deaths in Manhattan by the 2080s (relative to a 1980s baseline).⁵⁰ Increased ground-level ozone due to warming is projected to increase emergency department visits for ozone-related asthma in children (0 to 17 years of age) by 7.3% by the 2020s relative to a 1990 baseline of approximately 650 visits in the New York metropolitan area.⁵¹ According the DEC, The annual average temperature statewide has risen about 2.4°F since 1970, with winter warming exceeding 4.4°F.⁵²

Second, the re-suspension of toxic-and-pathogen-laden sediment and the discharge of chemically laden drilling fluid will have significant health impacts to the people of New York.

As mentioned above, the proposed project will result in the resuspension of 1,091,734 cubic yards of toxic-laden sediment. The toxins include arsenic which is known to cause a variety of cancers in humans. Lead, another heavy metal which samples found exceeded the state thresholds is proven to cause neurologic impairment, especially in children. The re-suspended PCBs will enter the food chain and have significant effects on human health. More than 90% of human exposure to PCBs is through food, including fish and shellfish.

Furthermore, part of the proposal includes the release of chemical laced water into the bay. Williams/Transco plans to release 3.5 million gallons of seawater that was treated with the toxic chemical CORRTREAT 15316.⁵³ According to the Environmental Protection Agency, CORRTREAT 15316 is a highly toxic substance that is harmful to humans. Clariant, the manufacturer of CORRTREAT specifically notes on its Safety Data Sheet that “the product should not be allowed to enter drains, water courses, or the soil.”⁵⁴

Importantly, part of the Raritan Bay Loop would cut through the Raritan Bay Slag Superfund Site. The slag is contaminated by known pollutants such as lead, arsenic, antimony, copper, iron and chromium. Other metal contaminants include manganese, vanadium and zinc. EPA sampling has found contamination in the soil and surface waters in these areas. Disruption of this soil will push contaminated soil into the bay and further impact water quality and human health. Furthermore, the currents will ensure that not all re-suspended sediments will fall back down to the seafloor but will continue to mix in the water column.

⁵⁰ Li, T., R. M. Horton, and P. L. Kinney, 2013: Projections of seasonal patterns in temperature-related deaths for Manhattan, New York. *Nature Climate Change*, **3**, 717-721.

⁵¹ Sheffield, P. E., J. L. Carr, P. L. Kinney, and K. Knowlton, 2011: Modeling of regional climate change effects on ground-level ozone and childhood asthma. *American Journal of Preventive Medicine*, **41**, 251-257, doi:10.1016/j.amepre.2011.04.017.

⁵² Supra note 44.

⁵³ FEIS at 5-13.

⁵⁴ Clariant, Safety Data Sheet: CORRTREAT 15316. Pg. 4. Available at https://www.epa.gov/sites/production/files/2018-02/documents/tx0134060_sds.pdf.

Finally, the currents in both the Raritan and Lower New York Bays run counterclockwise.⁵⁵ Therefore, both the toxic-and-pathogen-laden sediment and the chemically laced drilling fluid will be caught by the currents and pushed toward the shores of Staten Island. These known harmful chemicals may make their way onshore, polluting the coast and impacting public health.

Therefore, in terms of the continued climate related harms, as well as the direct harms from the contaminants that will be re-suspended and discharged by the applicant; this project will have significant impacts on the health, safety and welfare of the People of New York.

The Proposed Project will cause unreasonable, uncontrolled or unnecessary damage to the natural resources of the State, including soil, forests, water, fish, shellfish, crustaceans and aquatic and land-related environment.

The NESE Project will not only threaten the water quality of both the Lower New York and Raritan Bays but will significantly impact other natural resources of the state, such as marine and wildlife that inhabit the waters.

Endangered and Threatened Species:

First, the project will harm numerous endangered, threatened species under both the Federal Endangered Species Act of 1973, as well as those listed under New York State Law.⁵⁶ The offshore segment of the project alone may impact 20 listed species.⁵⁷ Currently the effect on many of these species has yet to be confirmed. Currently, the National Marine Fisheries Office has determined that the NESE Pipeline may affect, and is likely adversely affect the right whale, fin whale, and Atlantic Sturgeon.⁵⁸ Therefore, formal consultation pursuant to the Endangered Species Act has been requested.⁵⁹

Congress enacted the ESA to “provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve [these] purposes.”⁶⁰ The Supreme Court has specifically held that Congress intended ESA-listed species to be afforded the “highest of priorities.”⁶¹

⁵⁵ Jeffries, Harry, *Environmental Characteristics of the Raritan Bay: A Polluted Estuary*, Narragansett Marine Laboratory, 1962.

⁵⁶ See, 16 U.S.C. § 1531 et seq. (1973), 6 CRR-NY Part 182, and FEIS at 4-162.

⁵⁷ FEIS at 6-161-162. For complete list see FEIS Table 4.6.3-2.

⁵⁸ NOAA National Marine Fisheries Service, Revised Determination of Effect and Request for Consultation. Feb. 7, 2019.

⁵⁹ *Id.*

⁶⁰ 16 U.S.C. § 1531.

⁶¹ *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 174 (1978); 16 U.S.C. § 1536(a)(2).

During formal consultation, the Service must evaluate the “effects of the action,” including all direct and indirect effects of the proposed action, plus the effects of actions that are interrelated or interdependent, added to all existing environmental conditions – that is, the “environmental baseline.”⁶² The environmental baseline includes the past and present impacts of all Federal, state, and private actions and other human activities in the action area....⁶³ The effects of the action must be considered together with “cumulative effects,” which are “those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation.”⁶⁴

Therefore, until formal consultation has been completed, the effects of the action, including those together with the cumulative effects, are not known. Therefore, the true impact to the natural resources of the State, including, fish, shellfish, and crustaceans cannot yet be determined.

Turbidity:

Second, the increased turbidity of 1,090,000 tons of sediment released from excavating a 23.5-mile trench will make it difficult for these animals to find food and to navigate. The excavation of an 8- to 15-foot-deep trench for 23.5 miles will disturb hundreds of acres of sand and gravel, creating increased sediment in the water. The resulting increase in the turbidity of the water threatens marine life since the clarity of water is critical to the ability of many species to navigate, find food, and avoid predators. The FEIS notes that Horseshoe crab in the Project area may be injured or killed by excavation activities and/or increased turbidity.⁶⁵ Moreover impacts also include temporary loss of habitat and foraging areas.⁶⁶

Noise:

Third, the noise impacts from construction will impact marine mammals and fish. Marine mammals are sensitive to noise, and the constant noise and vibration generated by vessel engines and construction will be difficult for these animals to tolerate and could alter behavior and

Noise and vibration can also disorient marine species and lead to long-lasting damage and growth abnormalities in newly hatched organisms. The number of marine vessels required by the NESE Project (with diesel engines 24/7) and the drilling required for the tunneling portions will disrupt numerous species from bottom dwelling shellfish, such as crabs, to gigantic marine mammals such as whales.

⁶² 50 C.F.R. §§ 402.14 and 402.02.

⁶³ *Id.* § 402.02.

⁶⁴ *Id.*

⁶⁵ FEIS at 4-118.

⁶⁶ *Id.*

Nine months of 24/7 construction in the bay also poses a hazard to marine mammals from vessel strikes and noise. To protect these animals, Williams/Transco has proposed training vessel operators and crews to recognize them in the water and then take avoidance measures like slowing a vessel down or maneuvering it away. However, this will not work at night or in bad weather. Also, the types of vessels used to construct an in-water pipeline are not agile or easy to maneuver. Vessel operators are unlikely to be able to prevent collisions that may injure or kill seals, whales and turtles.

On May 30, 2025, NMFS received a request from Transco, for authorization to take marine mammals incidental to the NESE Project in Raritan Bay, Lower New York Bay, and the Atlantic Ocean. Due to the construction mentioned above, it is very possible marine mammals will be adversely affected. In the proposed incidental harassment authorization (IHA), “15 number species (with 16 number managed stocks)...temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur.”⁶⁷ This includes species like the North Atlantic Right Whale which are critically endangered with roughly 370 individuals left. This IHA would allow for Level B take of 12 of these individuals. For all marine mammals in the area, the IHA authorizes a total of 10,616 takes.⁶⁷ The disturbance to marine mammals and their habitat for an unnecessary fossil fuels project should not continue to be the norm.

Bottom Dwelling Fish, Shellfish, and Crustaceans:

Fourth, bottom dwelling marine life that live and feed on the seafloor are particularly vulnerable to the pollution and disruptions that the construction of the Williams/Transco NESE pipeline. Moreover, these species have both ecological and commercial value and are currently already unable to be harvested due to prolonged impairment of these waterways.

FERC estimates it would take these bottom-dwelling species, such as clams and crustaceans, 1 to 3 years to recover after construction of the Raritan Bay Loop.⁶⁸ Additionally, as the toxic sediment settles back down, it will cover seabed species, as well as fish eggs and larva. Again, the FEIS concludes that winter flounder eggs and larvae could be directly affected by excavation activities or smothered by sediments disturbed during construction and backfilling.⁶⁹

Impacts to Marine Life, Fish, Shellfish and Mollusks from Sieving:

Finally, the Hydrostatic Testing, Williams/Transco will suck up over 3.5 gallons of water at an extremely fast rate (2,350 gallons per minute) and filter the water through a mesh screen. Williams/Transco intends to position the water intakes halfway in the water column. It is

⁶⁷ *Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Northeast Supply Enhancement Project in Raritan Bay, Lower New York Bay, and the Atlantic Ocean*, 90 Fed. Reg. 38104 (Aug. 7, 2025).

⁶⁸ FEIS at 4-190.

⁶⁹ FEIS at 4-118.

important to remember that the water of the Raritan Bay is shallow. Therefore, this process will likely result in increased sediment disruption, adding to the documented disruption of 1,091,734 cubic yards already disturbed from the installation of the pipeline. This again will re-suspend toxins and harm marine life.

Moreover, the process will have a significant impact on the marine life of New York. The fish, larva, eggs, shellfish, and others caught in the process will be either crushed against the screen by the immense pressure or tunneled through the 23.5-mile pipeline. Any marine life caught in the process will be trapped in the pipeline for at least seven days, but possibly up to a month.⁷⁰ Under either circumstance the marine life are certain to be killed or harmed in the process.

Conclusion

New York has invested billions of taxpayer dollars to improve water quality, and the investments are working. Studies show the steady reduction in pathogens, heavy metals, PAH's, PCBs, Dioxins, and the like in water, sediments, and marine life. New York is also making significant progress in advancing a green energy future. The Williams NESE project will reverse that ecosystem progress and is inconsistent with a green energy future. It fails to comply with New York State's environmental regulations, laws, and policies. It is, therefore, also not in the public interest. Clean Ocean Action urges NYDEC to deny all *permits with prejudice*.

Thank you, again, for the opportunity to provide comments. If you have any questions about our comments or would like to discuss our recommendations further, please call the Clean Ocean Action office at 722-872-0111 or email advocate@cleanoceanaction.org.

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⁷⁰ FEIS at 4-134.