EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

October 25, 2010

Via Electronic Mail: efiling@ferc.gov
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Re: Comments on Scope of Environmental Assessment to Be Prepared for MARC I Hub Line Project, Docket No. CP10-480-000

Dear Ms. Bose:

On behalf of Earthjustice and the undersigned organizations and individuals, we respectfully submit the following comments on the scope of the environmental assessment ("EA") to be prepared by the Federal Energy Regulatory Commission ("FERC") with respect to the MARC I Hub Line Project proposed by Central New York Oil and Gas Company, LLC ("CNYOG"). Because the scoping process is intended to help agencies identify "significant issues," 40 C.F.R. § 1501.7 (2010), we focus our comments on crucial matters that appear not to be included in the Notice of Intent to Prepare an Environmental Assessment for the Proposed Marc I Hub Line Project and Request for Comments on Environmental Issues (Sept. 22, 2010). Specifically, we urge FERC to examine the cumulative impacts of this proposed project, especially the impacts on (1) forests and the ecosystem services they provide, (2) air quality, and (3) greenhouse gas ("GHG") emissions.

Marcellus Shale development is exploding in Pennsylvania. Records maintained by the Pennsylvania Department of Environmental Protection ("DEP") show that drilling of wells in the shale increased by nearly 400 percent between 2008 and 2009, from 195 wells to 768 wells.[1] From January through September of this year alone, 1,099 Marcellus wells have already been

[1] *See* Pa. Dep't of Envtl. Prot., *Wells Drilled in 2008*, DEP Bureau of Oil & Gas Mgmt., http://www.dep.state.pa.us/dep/deputate/minres/oilgas/BOGM%20Website%20Pictures/2008/2008%20Wells%20Drilled.jpg (last visited Oct. 25, 2010); Pa. DEP, *Wells Drilled in 2009*, DEP Bureau of Oil & Gas Mgmt., http://www.dep.state.pa.us/dep/deputate/minres/oilgas/BOGM%20Website%20Pictures/2009/2009%20%20Wells%20Drilled.jpg (last visited Oct. 25, 2010).

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

drilled in the state, a nearly ten-fold increase over the number of wells drilled a mere two years earlier.[2]

Of course, drilled wells are only one part of Marcellus Shale development. The gas produced by these wells can be gathered and transported to markets only with the construction of a vast infrastructure of gathering and transmission lines. The construction of pipelines in turn encourages new drilling where gas transportation is readily available. FERC reports that 5.6 billion cubic feet per day of pipeline capacity was constructed in the Northeast in 2008 and 2009, and an additional 1.2 billion cubic feet per day will have been constructed in the region by January 2011.[3] According to FERC, "[m]uch of the new pipeline capacity in the area is targeted at improving the access of shale gas to markets."[4]

Thus the proposed MARC I Hub Line, and others like it, fit into a larger picture of shale gas development in the region. The proposed MARC I Hub Line is both a product of the development of the Marcellus Shale and a likely catalyst for further gas development. According to CNYOG, "the need for [the MARC I] pipeline project is based on the absence of north-south interconnection between two major east-west pipelines thereby hindering the ability of shippers to deliver natural gas to the northeast . . . . [T]he MARC I Hub line will support the increasing Marcellus Shale production in Pennsylvania by providing access to the interstate pipelines."[5] Together with a number of projects now proposed in the Commonwealth that both stem from and facilitate development of the Marcellus Shale,[6] the impacts of the MARC I Hub Line cannot be understood apart from the totality of the past, present, and reasonably foreseeable future actions associated with Marcellus Shale development.

I. An EA Must Consider the Cumulative Impacts of Existing and Reasonably Foreseeable Future Actions.

Under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321-4370f (2006), and its implementing regulations, 40 C.F.R. Pts. 1500-08, agencies are required to consider a full range of environmental impacts, including "ecological (such as the effects on natural resources

---

[2] Pa. Dep't of Envtl. Prot., *Marcellus Permits Issued & Wells Drilled (January through September 2010)*, DEP Bureau of Oil & Gas Mgmt., http://www.dep.state.pa.us/dep/deputate/minres/oilgas/photogallery/photo13295/Marcellus%20Wells%20permitte-drilled%20January-September%202010.gif (last visited Oct. 25, 2010). The Bureau of Oil and Gas Management has issued 2,350 permits so far this year. *Id.*

[3] Fed. Energy Regulatory Comm'n, *Winter 2010-11 Energy Market Assessment* 10 (Oct. 21, 2010), http://www.ferc.gov/market-oversight/mkt-views/2010/10-21-10.pdf.

[4] *Id.*

[5] *Meeting Minutes: MARC I Hub Line Project Meeting with Laporte Borough Municipal Water Co.*, Fed. Energy Regulatory Comm'n ELibrary (Sept. 27, 2010), http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12460596.

[6] A list of 14 pipeline projects in Pennsylvania, including another one proposed by the applicant in this proceeding, is included in an Appendix to these comments. The list is by no means comprehensive.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, [and] cultural" impacts, "whether direct, indirect, or cumulative." 40 C.F.R. § 1508.8. Cumulative impacts are:

> impact[s] on the environment which result[] from the incremental impact of the action *when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions*. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Id. § 1508.7 (emphasis added). The Council on Environmental Quality ("CEQ") has emphasized that cumulative effects analysis includes a "[f]ocus on truly meaningful effects" of "past, present, and future actions" as well as "all federal, nonfederal, and private actions."[7]

CEQ has made clear that "[t]he statutory clause 'major Federal actions significantly affecting the quality of the human environment' is to be construed by agencies with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated)." Statements on Proposed Federal Actions Affecting the Environment, 35 Fed. Reg. 7,390, 7,391 (May 12, 1970). Whether a project "significantly" affects the quality of the human environment, 42 U.S.C. § 4332(2)(C), depends on "considerations of both context and intensity," 40 C.F.R. § 1508.27. Intensity refers to "the severity of impact" and requires consideration of factors including "[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts." 40 C.F.R. § 1508.27(b)(7). "Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts." *Id.*

The requirement to consider cumulative impacts applies to EAs. *See Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1076 (9th Cir. 2002); *Soc'y Hill Towers Owners' Ass'n v. Rendell*, 210 F.3d 168, 180 (3d Cir. 2000). In fact,

> The importance of analyzing cumulative impacts in EAs is apparent . . . consider[ing] the number of EAs that are prepared. The Council on Environmental Quality noted . . . that "in a typical year, 45,000 EAs are prepared compared to 450 EISs . . . . Given that so many more EAs are prepared than EISs, *adequate consideration of cumulative effects requires that EAs address them fully*."

Kern, 284 F.3d at 1076 (quoting 1997 Council on Environmental Quality report) (emphasis in original).

---

[7] Council on Envtl. Quality, Considering Cumulative Effects Under the National Environmental Policy ACT vii (1997), *available at* http://ceq.hss.doe.gov/nepa/ccenepa/ccenepa.htm.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

A cumulative impact assessment must consider "reasonably foreseeable" actions that have potential cumulative impacts. *See* 40 C.F.R. § 1508.7; *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1214-15 (9th Cir. 1998). Moreover, the cumulative effects of actions similar to the proposed action, whether existing or reasonably foreseeable, should be considered. *See, e.g.*, *Nat'l Audubon Soc'y v. Dep't of Navy*, 422 F.3d 174, 196-97 (4th Cir. 2005) (stating that cumulative impact analysis of a proposed outlying landing field for Navy aircraft should have considered whether flights from and between the aircraft homebase station and the field would "add any significant noise-related or other environmental impacts to those that the *existing* military airspace currently imposes" and whether the proposed field would have cumulative effects in light of the reasonably foreseeable designation of additional military operating areas, even in non-adjacent areas) (emphasis added); *Lands Council v. Powell*, 395 F.3d 1019, 1027 (9th Cir. 2005) (finding environmental impact analysis of timber harvesting activity inadequate where the agency did not consider "in detail past timber harvesting projects and the impact of those projects," in combination with the proposed timber harvest, on the environment); *Grand Canyon Trust v. Fed. Aviation Admin*., 290 F.3d 339, 347 (D.C. Cir. 2002) (noting that the EA for the proposed construction of a replacement airport "must evaluate the cumulative impact of noise pollution [on a nearby national park] as a result of construction of the proposed replacement airport *in light of air traffic near and over the Park, from whatever airport, air tours near or in the Park*") (emphasis added); *Natural Res. Def. Council. v. Hodel*, 865 F.2d 288, 298 (D.C. Cir. 1988) (determining that cumulative impact assessment of an Outer Continental Shelf ("OCS") oil and gas leasing activity must consider the cumulative impacts of "simultaneous OCS development in different areas"); *Mountaineers v. U.S. Forest Serv*., 445 F. Supp. 2d 1235, 1247-48 (W.D. Wash. 2006) (concluding that cumulative impact analysis that only accounts for the incremental environmental effect of a proposed trail project on current trail use and only in a narrowly defined area is inadequate and must instead address "the overall level of environmental impact caused by the [entire] trail system").

In one particularly instructive case in the Northeast region, the Postal Service proposed construction of a facility that would require the paving of six acres of undeveloped land adjacent to an existing airport and highway. *See U.S. v. 27.09 Acres of Land*, 760 F. Supp. 345 (S.D.N.Y 1991). The court found the agency's Finding of No Significant Impact arbitrary and capricious, noting that the EA's consideration of the proposed facility's cumulative impact on water quality only addressed "the interaction of expected runoff from the site with present levels of runoff from the nearby" highway and airport. *Id.* at 351 The court commented:

> This inquiry included no consideration of possible future development of those facilities or of other nearby land. While such an omission may be excusable where future development is unlikely or difficult to anticipate, in the present case there currently exist plans to expand the airport dramatically, and movants have identified substantial additional development in progress or being planned in the vicinity. The impact of this array of near-certain future development will in fact be felt in combination with the effects of the facility's construction and operation, and accordingly must be analyzed. The failure of the EA to consider

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

> the facility's cumulative impact in conjunction with nearby anticipated development is a matter of particular concern in light of the regulations' clear statement that agencies should account for the impact of "reasonably foreseeable future actions."

Id. (citing 40 C.F.R. §§ 1508.6, 1508.27(b)(7)). The Court further found the EA lacking because it "framed its cumulative impact analysis too narrowly by considering only the facility's two immediate neighbors," the airport and highway. *Id.* "[A] critical consideration in determining the facility's cumulative environmental effects must be the interaction of its runoff with other pollutants . . . from whatever source." *Id.* at 351-52.

In short, the determination that must be made in an EA – whether a proposed project will have "significant" impacts – necessarily includes a consideration of the impact of the action when added to other past, present, and reasonably foreseeable future actions, whether federal, non-federal, or private. *See* 40 C.F.R. §§ 1508.7-8, 1508.27. FERC therefore is required to consider the impacts of the MARC I Hub Line in the context of existing and reasonably foreseeable Marcellus Shale development, which includes but is not limited to the hundreds of miles of gathering and transportation pipelines that have been and will need to be constructed to move the gas from the thousands of wells that have been and will be drilled to interstate markets.

II. The MARC I Hub Line Will Have Cumulatively Significant Impacts on the Environment.

The MARC I Hub Line Project will disturb 591 acres of land in Bradford, Sullivan, and Lycoming Counties during construction, leaving 236 acres of the landscape permanently altered for the operation of the project's facilities. A mere four percent of the proposed pipeline route will use or parallel existing rights-of-way. Along with 39 miles of pipeline and additional miles of access roads that will cut across forests and watersheds, the project will include two compressor units: one unit consisting of 15,300 hp of compression, filter separators, gas coolers, and other infrastructure, and a station consisting of 16,360 hp of compression, similar infrastructure, and a 300 kV emergency generator. The direct impacts of such wide-scale construction and development will no doubt be considered in the EA, but it is critical that FERC also consider the impacts of such development together with the impacts of existing and reasonably foreseeable future shale development and infrastructure construction in the area. After all, "[i]t is the *additive* effect of both agency and other actions taken together that constitutes the gravamen of appropriate cumulative impacts analysis under NEPA." *Mountaineers*, 445 F. Supp. 2d at 1248 (emphasis in original).

The cumulative impacts of the MARC I Hub Line and Marcellus Shale development on forests and watersheds, air quality, and greenhouse gases – each discussed in greater detail below – are only a few of the many potential cumulative impacts that should be assessed in the EA. FERC's Notice of Intent to prepare an EA identifies issues that FERC thought "deserve

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

attention based on a preliminary review of the proposed facilities and the environmental information provided by CNYOG."[8] These issues include "impacts on present and future land use," "impacts on vegetation and wildlife," "impacts on federally listed threatened and endangered species," "impacts on water resources," and "impacts due to construction and operation."[9] Given that "effects" and "impacts" are synonymous in the CEQ regulations and that the regulations define effects to include cumulative impacts, 40 C.F.R. § 1508.8, all of these identified impacts must be viewed cumulatively as well. That is, the incremental impact of the MARC I Hub Line on present and future land use, vegetation, wildlife, listed species, and water resources, must be added to the impacts of "other past, present, and reasonably foreseeable future actions regardless of the agency (Federal or non-Federal) or person undertak[ing] such other actions," 40 C.F.R. § 1508.7.

A. Forest Fragmentation

One serious cumulative effect of pipeline and compressor facility construction in the development of the Marcellus Shale is the destruction and fragmentation of forests that protect watersheds, which in turn provide clean drinking water to the people of Pennsylvania. As the U.S. Department of Agriculture ("USDA") has noted, "forests are the crucial first barrier for source water protection" and "are critically important to the supply of clean drinking water in the Northeast."[10] By holding and filtering water while regulating its downstream flow and absorbing rain, which replenishes groundwater and prevents flooding, forests provide irreplaceable services. In fact, two-thirds of the clean water supply in this country is stream water from precipitation that is filtered through forests, and the value of national forest water to humans has been estimated to exceed $27 billion per year.[11] Studies also show that a 10 percent decrease in forest cover in a drinking source area could increase the treatment costs of drinking water by more than 20 percent.[12] The USDA consequently views the protection and management of forests in source watersheds as "essential parts of future strategies for providing clean, safe drinking water that citizens can afford."[13]

---

[8] Fed. Energy Regulatory Comm'n Notice of Intent to Prepare an Environmental Assessment for the Proposed MARC I Hub Line Project and Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting and Onsite Review (Sept. 22, 2010).
[9] *Id.*
[10] *See* Martina C. Barnes et al., U.S. Dep't of Agric., Forests, Water and People: Drinking water supply and forest lands in the Northeast and Midwest United States vi, 2 (2009) [hereinafter USDA Northeast Report], *available at* http://na.fs.fed.us/pubs/misc/watersupply/forests_water_people_watersupply.pdf.
[11] *See* Robert A. Smail & David J. Lewis, U.S. Dep't of Agric., Forest Land Conversion, Ecosystem Services, and Economic Issues for Policy: A Review 11-12 (2009), *available at* http://www.fs.fed.us/openspace/fote/pnw-gtr797.pdf.
[12] *Streamside Forests*, Stroud Water Research Ctr., http://www.stroudcenter.org/education/communities/trees_and_water.html (last visited Oct. 25, 2010).
[13] *See* USDA Northeast Report at 2.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

In Pennsylvania, in particular, where 81 percent of forests are privately-owned and the watersheds with the highest ability to produce clean water are in the northern portion of the state, it is critical that development proceed with a careful eye to the impacts on forests and watersheds.[14] The Pine Creek watershed, which serves parts of Lycoming County, provides surface drinking water to 7,550 consumers, and the Lower West Branch Susquehanna watershed covering much of Sullivan and Lycoming Counties provides surface drinking water to 102,075 consumers in Pennsylvania.[15] An EA that examines only the direct impacts of the MARC I Hub Line on these watersheds and drinking water, and not the incremental impact of the project, added to other past, present, and reasonably foreseeable future actions in developing the Marcellus Shale, would fail to properly determine the actual impact of the MARC I Hub Line on "the quality of the human environment," 42 U.S.C. § 4332(2)(C), and would fail to comply with NEPA, 40 C.F.R. §§ 1508.7-8.

B. Air Pollution

The cumulative impact analysis also should include consideration of the incremental impact of the MARC I Hub Line on air quality, added to the air quality impacts of existing and reasonably foreseeable Marcellus Shale development in the region, including other pipeline construction. Natural gas and oil production and transmission emit substantial amounts of air pollution, including volatile organic compounds ("VOCs"), nitrogen oxides ("NOx"), and toxic air pollutants.[16] The toxic air pollutants include benzene, a known carcinogen; toluene, n-hexane, and xylenes, which can lead to nervous system effects; and ethylbenzene, which can cause blood disorders.[17] Recent tests suggest that compressor stations also may emit harmful levels of formaldehyde, another known carcinogen.[18] VOCs and NOx contribute to local and regional ozone pollution, which has serious impacts on respiratory and cardiovascular health as well as on vegetation and forest ecosystems.[19] Particulate matter too, whether directly emitted from exhaust and fugitive dust during construction or from operation of diesel-fired engines or

---

[14] *See* U.S. Dep't of Agric., Forests, Water and People: Drinking water supply and forest lands in Pennsylvania 2 (2009), *available at* http://www.na.fs.fed.us/watershed/factsheets/fwap/FWAP_state_sheet_PA.pdf.

[15] *Id.* at 3.

[16] *See* Al Armendariz & Envtl. Def. Fund, Emissions from Natural Gas Production in the Barnett Shale Area and Opportunities for Cost-Effective Improvements 24 (2009), http://www.edf.org/documents/9235_Barnett_Shale_Report.pdf; *see also Outdoor Air – Industry, Business, and Home: Oil and Natural Gas Production – Additional Information*, Envtl. Prot. Agency, http://www.epa.gov/oaqps001/community/details/oil-gas_addl_info.html (last visited Oct. 25, 2010). [hereinafter *EPA Natural Gas Production Air Effects*].

[17] *See EPA Natural Gas Production Air Effects.*

[18] *See* Aman Batheja, *Carcinogen from gas compressor stations being monitored*, Star-Telegram, Oct. 4, 2010, *at* http://www.star-telegram.com/2010/10/03/2516374/formaldehyde-from-gas-compressor.html.

[19] *See* National Ambient Air Quality Standards for Ozone, 75 Fed. Reg. 2,938, 2,938, 3,000 (Jan. 19, 2010); *see also* Judy Fahys, *Ozone Raises Its Ugly Head in Utah*, Salt Lake Tribune, Oct. 21, 2010, *at* http://www.sltrib.com/sltrib/home/50516943-76/ozone-county-basin-epa.html.csp.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

indirectly created from interactions of NOx emissions in the atmosphere, affects respiratory and cardiovascular health.[20]

Air emissions from the construction and operation of the MARC I Hub Line infrastructure *alone* may or may not amount to a level of significance, but it is critical that the EA assess significance based on the cumulative impact of the proposed hub line's emissions *together with* air emissions from existing and reasonably foreseeable Marcellus development. An examination of 2009 emissions data shows that in north-central Texas, VOCs and NOx emissions from compressor engines in the Barnett Shale area amounted to four times the emissions from all airports in the Dallas-Forth Worth area,[21] which includes the Dallas-Forth Worth International Airport, one of the busiest airports in the world. 2009 NOx and VOC emissions from Barnett Shale oil and gas development generally were comparable to emissions from all the cars and trucks in the nine-county Dallas-Fort Worth metropolitan area.[22] These figures suggest that any proper EA of a Marcellus Shale development project must consider the cumulative impacts of all oil and gas development in the area in order to truly comprehend the project's effect on the quality of the human environment.

C. Greenhouse Gas Emissions

In addition to considering the cumulative impacts of the MARC I project on forest fragmentation and air quality, the EA should consider the cumulative impacts of the project's direct and indirect GHG emissions. Direct emissions may include but are not limited to carbon dioxide ("CO_{2}") and nitrous oxide ("N_2O") emissions from compressor engines, line heaters, and generators; fugitive methane emissions from compressors and pipelines;[23] and black carbon emissions from diesel vehicles and equipment. Notably, methane is 56 times and N_2O is 280 times more warming than CO_2 over a twenty year period,[24] while black carbon is estimated to be 2,200 times more warming than CO_2 over the same period.[25]

---

[20] *Particulate Matter: Health and Environment*, Envtl. Prot. Agency, http://www.epa.gov/pm/health.html (last visited Oct. 25, 2010).

[21] *See* Armendariz at 25.

[22] *Id.*

[23] "The U.S. natural gas transmission network contains more than 279,000 pipeline miles. Along this network, compressor stations are one of the largest sources of fugitive emissions, producing an estimated 50.7 billion cubic feet (Bcf) of methane emissions annually from leaking compressors and other equipment components such as valves, flanges, connections, and open-ended lines." Envtl. Prot. Agency, Lessons Learned from Natural Gas STAR Partners 1, *available at* http://www.epa.gov/gasstar/documents/ll_dimcompstat.pdf.

[24] *See Global Warming Potentials*, United Nations Framework Convention on Climate Change, http://unfccc.int/ghg_data/items/3825.php (last visited Oct. 25, 2010).

[25] *See* L. Bruce Hill, Clean Air Task Force, The Carbon Dioxide-Equivalent Benefits of Reducing Black Carbon Emissions from U.S. Class 8 Trucks Using Diesel Particulate Filters: A Preliminary Analysis 3 (2009), *available at* http://www.catf.us/resources/publications/files/CATF-BC-DPF-Climate.pdf.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

Indirect emissions, "which are caused by the [proposed] action and are later in time or farther removed in distance, but are still reasonably foreseeable," 40 C.F.R. § 1508.8(b), are among the effects that agencies are required to consider under NEPA. *See id.* § 1508.25(c). CEQ Draft Guidance has noted that "for Federal actions that require an EA or EIS *the direct and indirect GHG emissions from the action should be considered in scoping*," and these GHG impacts should be considered in the context of the "aggregate effects of past, present, and reasonably foreseeable future actions."[26] One indirect effect of the MARC I Hub Line's transportation of natural gas from the Marcellus Shale is that this gas will be combusted for use, releasing greenhouse gases that cause climate change. This effect is not only reasonably foreseeable, it is certain. Where CEQ has called for NEPA analyses of GHG sources to "take account of all phases and elements of the proposed action over its expected life,"[27]such certain downstream effects of a gas pipeline should be assessed. Moreover, cumulative impact analysis requires that these GHG emissions be considered in the context of GHGs emitted from the aggregate of natural gas that have been and will reasonably foreseeably be extracted from the Marcellus Shale.

III. Conclusion

"[T]he purpose of NEPA is to sensitize all federal agencies to the environment in order to foster precious resource preservation." *Nat'l Audubon Soc'y*, 422 F.3d at 184 (citing *Andrus v. Sierra Club*, 442 U.S. 347, 350-51 (1979)). FERC regulations implementing NEPA take this purpose seriously, requiring that the siting, construction, and maintenance of facilities "be undertaken in a way that avoids or minimizes effects on scenic, historic, wildlife, and recreational values." 18 C.F.R. § 380.15(a). This duty cannot be avoided by pointing to the rapid growth of natural gas production in the Marcellus Shale. The breakneck speed of development is precisely why environmental impacts, including cumulative impacts, must be considered – not an excuse for refusing to quantify them. Nor can lack of access to specific information about future production be an excuse for avoiding an agency's duty under the law, particularly where information can be obtained from communication with state and local agencies and individual companies. We therefore urge FERC to fulfill its mandate under NEPA and its own regulations implementing NEPA – an obligation that will require FERC to address in its EA of the MARC I Hub Line the cumulative impacts of the project in the context of Marcellus Shale development and the hundreds of miles of pipeline infrastructure that will gather and transport Marcellus Shale gas for markets.

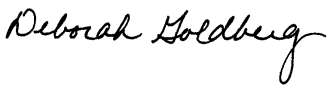
---

[26] Council on Envtl. Quality, Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions 5, 9-10 (Feb. 18, 2010) (emphasis added), *available at* http://ceq.hss.doe.gov/nepa/regs/Consideration_of_Effects_of_GHG_Draft_NEPA_Guidance_FINAL_02182010.pdf (notice of availability published at 75 Fed. Reg. 8,046 (Feb. 23, 2010)).

[27] *Id.* at 5.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

Respectfully submitted,



Deborah Goldberg
Managing Attorney

Hannah Chang
Associate Attorney

On behalf of:

Cathy Pedler
Forest Watch Coordinator
ALLEGHENY DEFENSE PROJECT

Jill Wiener
CATSKILL CITIZENS FOR SAFE ENERGY

Wes Gillingham
Program Director
CATSKILL MOUNTAINKEEPER

Sarah Eckel
Policy Analyst
CITIZENS CAMPAIGN FOR THE ENVIRONMENT

John Kesich
CITIZENS CONCERNED ABOUT NATURAL GAS DRILLING (CCANGD)

Vera Scroggins
CITIZENS FOR CLEAN WATER

Anne Harris Katz
Secretary & Board Member
COALITION FOR RESPONSIBLE GROWTH & RESOURCE CONSERVATION (CRGRC)

Bonnie Seegmiller
Director
COLCHESTER COMMUNITY

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

Melanie Steinberg
Outreach Coordinator
THE COMMITTEE TO PRESERVE THE FINGER LAKES

David Slottje
Executive Director
COMMUNITY ENVIRONMENTAL DEFENSE COUNCIL, INC.

Barbara Arrindell
Director
DAMASCUS CITIZENS FOR SUSTAINABILITY

Caroline Martin
Director
DELAWARE COUNTY NEIGHBORS

Tracy Carluccio
Deputy Director
DELAWARE RIVERKEEPER NETWORK

Nadia Steinzor
Marcellus Regional Organizer
EARTHWORKS OIL AND GAS ACCOUNTABILITY PROJECT

Andrea Young
Corresponding Secretary
MUNCY CREEK WATERSHED ASSOCIATION

Michael Lebron and Stanley R Scobie, Ph.D.
Principals
NEW YORKERS FOR SUSTAINABLE ENERGY SOLUTIONS STATEWIDE (NYSESS)

Joe Levine
Chair
NYH_2O

Charles Sackrey
Co-Chair of the Board of Directors
ORGANIZATIONS UNITED FOR THE ENVIRONMENT

Iris Marie Bloom
Director
PROTECTING OUR WATERS

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

Ralph Kisberg
President
RESPONSIBLE DRILLING ALLIANCE

Patty Bloomer
President
E.L.ROSE CONSERVANCY OF SUSQUEHANNA COUNTY, INC.

Susan Lawrence
Chapter Chair
SIERRA CLUB ATLANTIC CHAPTER

Thomas Au
Conservation Chair
SIERRA CLUB, PENNSYLVANIA CHAPTER

William C. Fischer
Vice-President for Ecology Affairs
SILVER LAKE ASSOCIATION

Janice D. Burton
3058 Slaterville Road
Brooktondale, NY 14817

Gay Garrison RN BSN, and owner of
Three Swallows Farm
Ithaca, NY

Freshlife, Inc.
Barbara Jarmoska, President
2300 East Third Street
Williamsport PA 17701

Mitchell Lavine
719 Ringwood Rd.
Ithaca, NY 14850

Rachel Treichler
Attorney at Law
7988 Van Amburg Road
Hammondsport, NY 14840

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org

Appendix

Partial List of Proposed Marcellus Shale Pipeline Projects in Pennsylvania

1. North-South Project proposed by Central New York Oil and Gas Company, LLC
2. Tioga County Extension proposed by Empire Pipeline, Inc.
3. Unnamed 16-mile pipeline through Lycoming, Tioga, and Bradford Counties proposed by PVR Midstream
4. 300-line project proposed by ElPaso Corporation
5. Line N Project proposed by National Fuel Gas Supply Corporation
6. Appalachian Gateway Project proposed by Dominion Transmission, Inc.
7. TEMAX and TIME III Projects proposed by Texas Eastern Transmission
8. Delta Lateral Project proposed by Transcontinental Gas Pipeline Co., LLC
9. Dominion Hub III Project proposed by Dominion Transmission, Inc.
10. Sparrows Point Project proposed by AES Sparrows Point, LLC and Mid-Atlantic Express, LLC
11. Unnamed 9-mile pipeline through Greene, Fayette, and Washington Counties proposed by Peregrine Keystone Gas Pipeline, LLC
12. Unnamed 24-mile pipeline in Susquehanna County proposed by Laser Marcellus Gathering Co., LLC
13. Cochin Marcellus Lateral pipeline proposed by Kinder Morgan Energy Partners LP
14. Unnamed pipeline from the Marcellus Shale in Pennsylvania to the Chicago area proposed by Enbridge Inc.

156 WILLIAM STREET SUITE 800 NEW YORK, NY 10038
T: 212.791.1881 F: 212.918.1556 E: neoffice@earthjustice.org W: www.earthjustice.org