

**NON-GOVERNMENTAL ORGANIZATION LETTERS**



**Comment Form**

Park: Delaware Water Gap National Recreation Area and Middle Delaware National Scenic River  
Project: Susquehanna to Roseland 500kV Electric Transmission Line (ID: 25147)  
Document: Susquehanna to Roseland 500-kV Transmission Line Right-of-Way and Special Use Permit Draft Environmental Impact Statement - DEIS December 2012 (ID: 44314)

\* indicates required fields

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Comments or Requests:

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•EARTHJUSTICE•EASTERN ENVIRONMENTAL LAW  
CENTER •NATIONAL PARKS CONSERVATION  
ASSOCIATION •NEW JERSEY ENVIRONMENTAL  
FEDERATION •NEW JERSEY HIGHLANDS COALITION  
•ROCK THE EARTH•SIERRA CLUB •STOP THE LINES**

January 31, 2011

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Dear Superintendents Donahue and Underhill and Ms. Elmer,

Thank you for the opportunity to provide feedback on the Draft Environmental Impact Statement (“DEIS”) for the Susquehanna to Roseland 500kV Transmission Line Right-of-Way and Special Use Permit. On behalf of the Delaware Riverkeeper Network, National Parks Conservation Association, New Jersey Environmental Federation, New Jersey Highlands Coalition, Rock the Earth, Sierra Club, and Stop the Lines, we offer the following comments, noting at the outset that we appreciate the National Park Service’s intensive effort to analyze and disclose this project’s environmental impacts on the Delaware Water Gap National Recreation Area, the Appalachian National Scenic Trail, and the Middle Delaware National Scenic and Recreational River (collectively “Parks”).

While further analysis is needed to assess (1) the viability of alternatives to building the proposed 500kV line and (2) adverse impacts, including cumulative impacts,

outside the Parks, the DEIS conclusively demonstrates that the proposed Susquehanna to Roseland line would impair Park resources in violation of the National Park Service Organic Act. As the Park Service's own analysis makes clear, the agency cannot grant the requested right-of-way and special use permit without fundamentally degrading the unique natural, scenic, and cultural resources that these Parks were established to preserve. While recent news reports suggest that PPL Electric Utilities Corporation (PPL) and Public Service Electric and Gas Company (PSE&G) (collectively "the applicants") may be contemplating mitigation efforts in the form of land purchases or conservation easements, it is not possible to eliminate impairment to areas of special significance by expanding Park boundaries.

We urge the Park Service to deny the requested right-of-way and special use permit. The applicants have presented the agency with a false choice between conserving the Parks as the law requires and maintaining electric reliability. Circumstances have changed dramatically since 2006, when a need for the Susquehanna to Roseland Line ("S-R Line") was identified by PJM Interconnection ("PJM"). The reliability issues that the line was intended to address have largely been resolved; load demand in the areas that the line would serve continues to decline, as reflected in PJM's repeated downward adjustments to its load forecast; robust growth of energy efficiency and demand response resources continues to exceed PJM's expectations (as reflected in its modeling assumptions); and development of significant new generation capacity, including local renewable generation, has gone forward or is planned in New Jersey. All of these factors, both individually and collectively, suggest that the \$2 billion S-R Line is an expensive solution to a problem that no longer exists. However, PJM has yet to undertake new load flow analyses to determine whether the S-R Line is actually needed to ensure electric reliability in 2015 when the S-R Line is scheduled to be in service, or to evaluate whether there are non-transmission alternatives or more modest, less damaging transmission upgrades that would resolve outstanding reliability issues, if indeed there are any.

Absent updated analysis by PJM that affirmatively demonstrates the need to build the S-R Line, there is no adequate justification for accommodating a right-of-way request or granting a special use permit for construction that is inherently incompatible with Park values. The Applicants have made no effort to avoid or minimize harm to the Parks, electing instead to propose a route that runs through areas of singular ecological, scenic, and cultural importance. Moreover, the DEIS makes clear that the Park Service has not been able to identify an acceptable alternative route. Under these circumstances, the Park Service can and must issue a Record of Decision ("ROD") selecting the environmentally preferred "no action" alternative.

#### **I. THE PARK SERVICE MUST PREVENT IMPAIRMENT OF NATIONAL PARK RESOURCES**

The Park Service has an overriding mandate to defend against degradation that would inevitably result from construction of the S-R Line through the Parks. The National Park Service Organic Act of 1916 directs the Park Service "to conserve the

scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” 16 U.S.C. § 1. In the so-called ‘Redwood Act’ of 1978, Congress reaffirmed this core mandate with respect to all units within the National Park System, clarifying that “the promotion and regulation of the various areas of the National Park System . . . shall be consistent with and founded in the purpose established by [the Organic Act], to the common benefit of all of the people of the United States.” *Id.* § 1a-1. To this end, Congress directed that “[t]he authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established.” *Id.*

The Redwood Act and its legislative history “evidence Congress’ intent that the parks be managed so as to avoid any impairment or derogation of park resources and values.” *Southern Utah Wilderness Alliance v. Natl. Park Service*, 387 F. Supp. 2d 1178, 1191 (D. Utah 2005). Specifically, the legislative history provides, “[t]he Secretary is to afford the highest standard of protection and care to the natural resources within . . . the National Park System. No decision shall compromise these resource values except as Congress may have specifically provided.” *Id.* (quoting S.Rep. No. 95-528 at 13-14 (1977)). Further, the Secretary “has an absolute duty, which is not to be compromised, to fulfill the mandate of the 1916 Act to take whatever relief as will safeguard the units of the National Park System.” *Id.* (quoting S.Rep. No. 95-528 at 13-14).

Importantly, this duty entails not only preventing impairment of the Parks but also avoiding adverse impacts to Park resources to the greatest extent possible. As set forth in the National Park Service Management Policies:

The fundamental purpose of the national park system, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, begins with a mandate to conserve park resources and values. This mandate is independent of the separate prohibition on impairment and applies all the time with respect to all park resources and values, even when there is no risk that any park resources or values may be impaired. *NPS managers must always seek ways to avoid, or to minimize to the greatest extent practicable, adverse impacts on park resources and values.*

NPS, Management Policies § 1.4.3 (2006) (emphasis added); see also *Greater Yellowstone Coalition v. Kempthorne*, 577 F. Supp. 2d 183, 190 n.1 (D.D.C. 2008) (recognizing “§ 1.4 of the NPS Policies as the official and enforceable interpretation of the Organic Act”) (emphasis added). Thus, the courts have affirmed that “NPS is required to exercise its discretion in a manner that is ‘calculated to protect park resources’ and genuinely seeks to minimize adverse impacts on park resources and values.” *Id.* at 193 (citing *Daingerfield Island Protection Soc’y v. Babbitt*, 40 F.3d 442, 446 (D.C. Cir. 1994)).

The Park Service is further obligated to afford the Middle Delaware the full protection afforded by the Wild and Scenic Rivers Act. 16 U.S.C. §§ 1271 et seq. “In 1968, the Delaware River within DEWA was designated as a scenic and recreational river.” NPS, Draft Environmental Impact Statement for the Susquehanna to Roseland 500kV Transmission Line Right-of-Way and Special Use Permit, 12 (Dec. 2011) (“DEIS”). As such, the Middle Delaware “*shall* be administered in such manner as to protect and enhance the values that caused it to be included in the wild and scenic rivers system without limiting other uses that do not substantially interfere with public use and enjoyment of these values.” *Id.* (emphasis added); 16 U.S.C.A. § 1281(a). In particular, the Park Service must ensure protection of the river’s aesthetic, scenic, historic, archeological, and scientific features. 16 U.S.C.A. § 1281(a).

**A. The National Park Service Has Identified Adverse Impacts that Compel Denial of the Right-of-Way and Special Use Permit**

The DEIS identifies major adverse impacts from the proposed S-R Line to Park resources including iconic scenery, historic landscapes, rare ecological communities, imperiled and recovering wildlife species such as bald eagles, defining geologic formation, and the experience of the millions of visitors who visit these extraordinarily popular Parks each year. *See, e.g.*, DEIS at 683-687. The nature and severity of these adverse impacts bears emphasis. Among the very serious threats posed by the project are the following:

- **“Drastic scenic degradation that could violate the Organic Act”** (DEIS at 686): “The presence of large and obtrusive infrastructure in a relatively undeveloped zone would be a distraction and detract from the experience visitors seek when coming to the parks. It would degrade the regionally unique and unusual wilderness-like viewshed for APPA that DEWA and MDSR provide. Larger structures also introduce non-conforming elements to the parks’ cultural landscapes and historic sites affected by this alignment and detract from the characteristics that qualify them for protection. This, in turn, would have adverse impacts on the MDSR through degradation of the scenic values for which the river was designated. The visual change would affect a relatively large area and a large number of users.” *Id.* at 683.
- **A “high risk for irreparable damage to significant ecological communities”** (*id.* at 686): The applicant’s proposal would “cross in the center part of DEWA, including the MDSR. In general, this area is one of the most undeveloped areas of the park, containing large swaths of contiguous mature forest, few manmade intrusions, unique geological formations, a globally-significant rare plant community, and abundant opportunities for solitude. This part of the park is a particularly sensitive area because it contains high concentrations of many important and unique

natural features including, rare limestone formations, the Arnott Fen, the Delaware River riparian corridor, eastern hemlock forests, the Hogback Ridge, the Kittatinny Ridge, and the Van Campens Brook riparian area. Several resources on this alignment are recognized for their superlative biodiversity (e.g., Hogback Ridge and Arnott Fen) and are significant in both park and regional contexts, making any impacts in these locations even more acute.” *Id.* at 684

- **Migratory bird and raptor kills:** “The high risk of bird collisions as a result of creating an aerial hazard on a major migratory flyway coupled with the unknown extent of the potential mortality of and injury to migrating birds and the uncertainty as to the effectiveness of mitigation measures could potentially violate the Act.” *Id.* at 686.
- **Taking of bald eagles:** “The siting of a transmission line adjacent to a bald eagle roost is counter to the recommendations in the National Bald Eagle Management Guidelines and the risk of eagles colliding with the lines cannot be mitigated; therefore, it is likely that the potential loss of eagles through collisions would require a permit from the USFWS for “take” of bald eagles associated with operation of the transmission line.” *Id.*; *see also id.* at 684 (noting that the proposed line would run next to “an important communal roost for wintering bald eagles that is one of only two known winter roosts in DEWA”).
- **Impairment of a Wild and Scenic River:** The applicants’ proposal “would result in significant long term degradation of the scenic values for which the river was designated, which may violate the directives in Section 10(a) of the WSRA to ‘protect and enhance’ those values which caused the river to be included in the system.” *Id.* at 687. Notably, the applicants’ proposal “crosses close to a unique river feature, the Walpack Bend, which is a premier visitor attraction in DEWA.” *Id.* at 684
- **Degradation of cultural resources:** “The crossing area also contains a high concentration of cultural resources including pre-Columbian fishing camps and 32 identified historic structures, owing to a fortuitous combination of topography and land protection.” *Id.*
- **A damaging precedent:** Approval of a right-of-way for the S-R Line “could establish a precedent that may invite similar proposals by other applicants in the future, and create an expectation of like treatment for those proposals; it may make it difficult to deny such proposals. DEWA and APPA both contain numerous other utility crossings, which makes the risk of such precedent particularly concerning for these parks. . . . The location of this particular [proposed Route 2] crossing within DEWA — the center of the park — could make such a precedent even more potent.

Installing the S-R Line on this alignment may invite future utilities proposing to follow the same route. *Id.* at 685.

As the Park Service recognizes, “[a]llowing such adverse effects in order to facilitate private infrastructure expansion would be contrary to NPS practice and principle of protecting and improving these resources, and of removing incompatible infrastructure to do so.” *Id.* at 685. As noted above, the Park Service further acknowledges that allowing the S-R Line to cross through the middle of the Park, through areas of extraordinary significance along Route 2 or 2b, “poses high risk for irreparable damage to significant ecological communities and drastic scenic degradation that could violate the Organic Act (impairment).” *Id.* at 686 (also noting potential for violation of the Wild and Scenic Rivers Act). Based on the analysis presented on the DEIS, the Park Service must conclude in the Final EIS that siting the S-R Line along any of the analyzed routes would result in impairment of the Parks in violation of the Organic Act and the Wild and Scenic Rivers Act.

In evaluating the threat of impairment, the Park Service is obligated to apply its official interpretation of the Organic Act, as set forth in the Management Policies:

Whether an impact meets this definition [of impairment] depends on the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts. An impact is more likely to constitute impairment to the extent that it affects a resource or value whose conservation is necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or identified in the park’s general management plan or other relevant NPS planning documents as being of significance.

NPS, Management Policies § 1.4.5.<sup>1</sup> Here, the impacts that will flow from construction of the S-R Line will directly impact resources that the Parks were expressly created to protect.

As explained in the DEIS, “Congress established [the Delaware Water Gap National Recreation Area] DEWA in 1965 to provide for “public outdoor recreation use and enjoyment of the proposed Tocks Island Reservoir and lands adjacent thereto and for the preservation of the scenic, scientific, and historic features contributing to public enjoyment of such lands and waters.” DEIS at 11 (quoting PL 89-158). Contributing to

<sup>1</sup> The D.C. Circuit Court of Appeals has held that the Management Policies as a whole are not judicially enforceable. See *Wilderness Society v. Norton*, 434 F.3d 584, 596-97 (D.C.Cir. 2006). However, 1.4 of the Management Policies, which interprets the Organic Act’s preservation mandate, was noticed in the Federal Register, subject to public comment, and published in final form in the Federal Register. As such, it bears the hallmarks of a rulemaking, and the Park Service has acknowledged that it represents the agency’s formal interpretation of the Organic Act. It has been determined to be judicially enforceable accordingly. See *Greater Yellowstone Coalition*, 577 F. Supp. 2d 190 n1.

its national significance are its “[o]utstanding geologic and natural features [that] form some of the best-known scenic landscapes in the northeastern United States,” *id.*, the essential habitat it provides to sustain plant and animal communities including globally significant natural heritage areas, *id.* at 195, and “the most significant, intact concentration and diversity of known archeological resources in the northeastern United States, as well as outstanding examples of American Indian and European settlements dating from the Early Woodland through Late Colonial historic periods.” *Id.* at 11. The Delaware Water Gap is also “significant due to the exceptional quality of the Delaware River,” which is “the last free-flowing river in the eastern United States.” *Id.*

Like the Delaware Water Gap, the Appalachian Trail is defined by the access to undisturbed woods and wild lands that it provides. A footpath running from Maine to Georgia, it gives hikers an unparalleled opportunity to experience undeveloped natural and scenic landscapes of the Appalachian Mountains. *See id.* at 12. Its national significance is inherently tied to intact preservation of the lands and landscapes it passes through. Notably, the stretch of the Appalachian Trail that would be impacted by the S-R Line now boasts “a very natural and relatively unspoiled viewshed provided by the[] undeveloped lands below it.” *Id.* at 684.

Building a new extra high voltage power line with 200-foot towers across the center of the Delaware Water Gap, across the Middle Delaware, and across the Appalachian Trail will necessarily mar the iconic scenic and historic landscapes that the Parks were established to preserve; it will irreversibly destroy and thus fragment habitat including outstanding value wetlands within rare ecological communities; it will create a major aerial hazard in a key migratory flyway; and it will require blasting (and destruction) of unique geological formations. *See, e.g., id.* at 683-87. Each of these impacts “affects a resource or value whose conservation is necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park” and is “key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park.” NPS, Management Policies § 1.4.5. Further, as the Park Service apparently recognizes, much of this severe damage would be permanent and irreversible. *Id.* at 685. In short, the analysis of impacts provided in the DEIS confirms that the S-R Line would illegally impair Park resources.

The Park Service has discretion to evaluate whether adverse impacts rise to the level of impairment. *See Greater Yellowstone Coalition*, 577 F. Supp. 2d at 193 (“[T]he Organic Act gives the Park Service broad, but not unlimited discretion in determining *what actions are best calculated to protect Park resources.*”) (emphasis in original) (internal quotations and citations omitted). However, the courts have made clear that the agency cannot discount the major impacts it has identified to conclude that damaging activities can nevertheless go forward. Rather, it must provide a convincing explanation why such impacts are acceptable. *See id.* at 195 (rejecting authorization of snowmobiling in Yellowstone National Park because “NPS provides no quantitative standard or qualitative analysis to support its conclusion that the adverse impacts . . . are ‘acceptable’”); *see also Bluewater Network v. Salazar*, 721 F. Supp. 2d 7, 29-38 (D.D.C. 2010) (holding Park Service authorization of jet ski use in the National Parks to be”

arbitrary and capricious because NPS' conclusion that PWC use would result in non-impairment under the Organic Act is not based on reasoned explanations"); *Sierra Club v. Mainella*, 459 F. Supp. 2d 76, 103 (D.D.C. 2006) (holding that the Park Service "failed adequately to explain its conclusion that impacts from nearby surface drilling activities would not result in an impairment of park resources and values."). Given the major adverse impacts that will necessarily flow from allowing construction of the S-R Line to go forward in the Parks, there is no such explanation available to justify the grant of right-of-ways and special use permits. See *Greater Yellowstone Coalition*, 577 F. Supp. 2d at 202 (stating "this Court is equally perplexed as to why any impact characterized as 'major and adverse' does not constitute an unacceptable impact, let alone impairment").

Further, putting aside the question of impairment, the Park Service "has interpreted the Organic Act to prohibit uses which cause 'unacceptable impacts.'" *Greater Yellowstone Coalition*, 577 F. Supp. 2d at 194; NPS, Management Policies § 1.4.7.1. The Management Policies define "unacceptable impacts" as "impacts that, individually or cumulatively, would":

- Be inconsistent with a park's purposes or values, or
- Impede the attainment of a park's desired future conditions for natural and cultural resources as identified through the park's planning process, or
- Create an unsafe or unhealthful environment for visitors or employees, or
- Diminish opportunities for current or future generations to enjoy, learn about, or be inspired by park resources or values, or
- Unreasonably interfere with park programs or activities, or an appropriate use, or the atmosphere of peace and tranquility, or the natural soundscape maintained in wilderness and natural, historic, or commemorative locations within the park.

NPS, Management Policies § 1.4.7.1. Again, in order to grant the requested right of way and special use permit, the Park Service would have to do the impossible and provide a reasoned explanation why the impacts reported in the DEIS could be deemed acceptable in keeping with these standards. See, e.g., *Greater Yellowstone Coalition*, 577 F. Supp. 2d at 194-195.

#### **B. The Impairment of Park Resources Cannot Be Mitigated**

There is no apparent way to mitigate harm from the proposed S-R Line to avoid impairment of Park resources. Because many of the mitigation plans set forth in Appendix F of the DEIS have yet to be developed, it is impossible to determine the extent to which they may temper the damage associated with construction in sensitive wetlands,

floodplains, geological formations, and plant and wildlife habits. *See, e.g.* DEIS at 390 (“[T]he NPS would require a NPS-specific, NPS-park approved vegetation management plan.”); DEIS App. F at F-5 (“A blasting plan would be prepared and submitted to NPS for review and approval by a blasting expert before construction.”); *id.* (“A preconstruction surface assessment would be completed prior to disturbance, and that if found, resources will be avoided, or if unavoidable, collected and properly cared for before the start of construction.”); *id.* (“For tower locations abutting and adjacent to limestone fens, alternate techniques, including drilling, would be evaluated to minimize the potential for impact to the fens.”); *id.* at F-10 (“An Avian Protection Plan (APP) would be completed in accordance with the Bald Eagle Guidelines (USFWS 2007) and APLIC standards would be a condition of the applicant’s permit.”); *id.* at F-17 (“Develop an OHV/ATV deterrent plan prior to construction activities.”).

However, regardless of the shape that these various mitigation plans may eventually take, it is clear that significant damage cannot be avoided if the applicants are allowed to undertake all of the roadwork, blasting, bull-dozing, tree-cutting, and elimination of ground cover<sup>2</sup> that is required to complete this major infrastructure project. Certainly, there is no way to mitigate the appearance of 200-foot transmission towers, which will become a dominant feature of the landscape for the foreseeable future. *See, e.g.* DEIS at 683, 686, Appendix K. In fact, the analysis of scenic degradation in the DEIS most likely discounts the visual impact of the new transmission towers in portraying them as monopoles rather than the lattice towers that may well be required given the results of soil borings.

Where, as here, major adverse impacts are fundamentally unavoidable if the S-R line goes forward, the Park Service cannot rely on mitigation measures to comply with its preservation mandate under the Organic Act and the Wild and Scenic Rivers Act. *See, e.g., Sierra Club North Star Chapter v. LaHood*, 693 F. Supp. 2d 958, 963 (D. Minn. 2010) (rejecting Park Service argument that adverse impacts from construction of bridge over wild and scenic river could be mitigated to become acceptable).

While the DEIS does not analyze the potential for mitigating the S-R Line’s impacts through the acquisition of lands adjacent to the Parks, the applicants have announced their intent to make \$30 million available for this purpose in the event they are authorized to construct the S-R Line along their proposed Route 2. However, an incremental enlargement of the Delaware Water Gap cannot mitigate impairment to core resources that the Park was created to protect. Congress intended to preserve the unique features that lie within the Park’s current boundaries, and the Park Service has no authority to abrogate Congress’ judgment by compromising the resources and values associated with the Park in exchange for lands outside the Park. *See* 16 U.S.C. § 1 (requiring the Park Service “to conserve the scenery and the natural and historic objects and the wild life *therein*”) (emphasis added). If the Park Service could evade the prohibition on impairment simply by acquiring more land outside the Parks, the Organic

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<sup>2</sup> Importantly, the applicants must obtain not only Park Service approvals for these construction activities but also a permit from the Delaware River Basin Commission (“DRBC”) for activities that incur significant disturbance of ground cover affecting water resources. DRBC Rules of Practice and Procedure §2.3.5(13).

Act would no longer afford effective safeguards for Park resources that are subject to development pressure. While acquisition of additional property may often serve to further conservation goals and ecosystem protection, the Park Service cannot rely on a land deal to approve the applicants' proposal.

Moreover, the Park Service cannot base its record of decision on a mitigation plan that has never been disclosed to the public. Under NEPA, the agency must analyze any such plan in the EIS and afford a meaningful opportunity for public comment on that new analysis. *See* 40 C.F.R. §§ 1502.9(1), (4) (requiring agencies to "prepare supplements to either draft or final environmental impact statements if: (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts" and further requiring that agencies "[s]hall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement").

## **II. APPLICANTS CANNOT IMPLEMENT ALTERNATIVE 2B WITHOUT NATIONAL PARK SERVICE APPROVALS**

The Park Service is not consigned to allow the S-R proposal to go forward as contemplated by the applicants if they can feasibly construct the new line within their existing right-of-way. As the DEIS correctly points out, the project likely would require cutting of so-called "danger trees" outside of the right-of-way, and that requirement alone obliges the applicants to secure approval of a right-of-way expansion. DEIS at vi. More fundamentally, however, the applicants do not have the right to undertake activities that will have significant environmental impacts without first obtaining the Park Service's approval. As governing regulations make clear:

Constructing or attempting to construct a building, or other structure, boat dock, road, trail, path, or other way, telephone line, telegraph line, *power line*, or any other private or public utility, upon across, over, through, or under *any* park areas, except in accordance with the provisions of a valid permit, contract, or other written agreement with the United States, is prohibited.

36 C.F.R. § 5.7 (emphasis added). The Park Service's authority to enforce this regulation as to activities undertaken in existing right-of-ways is not in doubt.

First, the Park Service has the authority to prevent activities in right-of-ways that would impair park resources or otherwise result in unacceptable impacts. As several courts have affirmed, the Park Service may lawfully regulate the use of a right-of-way "to protect the scenery and natural beauty of the park lands. *U.S. v. Garfield Cty.*, 122 F. Supp. 2d 1201, 1236 (D. Utah 2000). *Accord, Clouser v. Espy*, 42 F.3d 1522, 1538 (9th Cir. 1994) (upholding the validity of Park Service regulation of activities on right-of-ways); *Adams v. United States*, 3 F.3d 1254, 1258 n. 1 (9th Cir. 1993) (same); *United States v. Vogler*, 859 F.2d 638, 642 (9th Cir. 1988), *cert. denied*, 488 U.S. 1006 (1989)

(same); *United States v. Jenks*, 22 F.3d 1513 (10th Cir. 1994) (same); *Wilkinson v. Department of Interior*, 634 F. Supp. 1265 (D. Colo. 1986) (same). In *Vogler*, the Ninth Circuit held that “Congress has made it clear that the Secretary has broad power to regulate and manage national parks. The Secretary’s power to regulate within a national park to ‘conserve the scenery and the nature and historic objects and wildlife therein . . .’ applies with equal force to regulating an established right-of-way within the park.” 859 F.2d at 642 (quoting 16 U.S.C. § 1) (emphasis added). Thus, it is not the case that the applicants can undertake whatever construction they choose within the existing right-of-way, much less proceed without obtaining Park Service authorization. “The holder of a right-of-way, private or public, cannot lawfully take dominant possession and deal with the land upon which the easement exists as if he were the owner of the land, because he is not the owner of the land.” *Garfield County*, 122 F. Supp. 2d at 1242 (further explaining that “[e]asements do not carry any title to the land over which the easement is exercised, and work no dispossession of the owner. Since the interest itself is nonpossessory, the holder of the easement does not have the degree of control over the burdened property that is enjoyed by the owner of the servient estate; complete dominion is inconsistent with a claim of easement.”) (citing 28A C.J.S. Easements § 144, at 347).

Second, any activities that may have a significant environmental impact—as the S-R Line project will indisputably have—must be subject to NEPA review by the Park Service before any construction can proceed. *See, e.g., Garfield County*, 122 F. Supp. 2d at 1235-36 (recognizing that “the Park Service also has a duty imposed upon it by Congress to consider the impact on the environment of projects” in the Parks even with private right-of-ways). As explained by the *Garfield County* court, “[b]eyond evaluating the environmental impact of proposed construction work, where that work would impair the value of the scenery and natural objects of the park, or would otherwise be conducted in derogation of park values, the Park Service has the responsibility to formulate less burdensome alternatives.” *Id.* at 1245. Thus, the applicants cannot build a new transmission line in its existing right-of-way unless and until the Park Service completes its NEPA Review and selects a less damaging alternative. Where, as here “a federal agency has the power to protect public lands,” the courts have “recognized that agency’s power—and duty—to formulate viable alternatives, and if needs be, ‘the responsibility to impose an alternative it deems less degrading upon the nonfederal actor.’” *Garfield County*, 122 F. Supp. 2d at 1245 (quoting *Hodel*, 848 F.2d at 1090-91).

### **III. THE FINAL EIS MUST INCLUDE ANALYSIS OF A FULL RANGE OF ALTERNATIVES**

The Park Service’s consideration of alternatives is critical to meeting its obligations to protect the Parks under the Organic Act and Wild and Scenic Rivers Act, and to provide for an informed decision-making process under NEPA. Under the Organic Act, the Park Service is bound to identify and select the least damaging alternative available. *See, e.g., Daingerfield*, 40 F.3d at 446, n.3 (noting that “the only choice left to the Park Service was to approve the least intrusive interchange possible, which it did, or refuse to approve any interchange at all”); NPS, Management Policies §

1.4.3. Necessarily, this obligation puts a premium on evaluating a full range of alternatives that are consistent with preserving the Park resources and values.

Further, under NEPA, the Park Service is required to “[r]igorously explore and objectively evaluate all reasonable alternatives” to a proposed action. 40 C.F.R. § 1502.14(a). Crucially, the purpose of an EIS is “to provide full and fair discussion of significant environmental impacts and to inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” *Natural Res. Def. Council, Inc. v. Fed. Aviation Admin.*, 564 F.3d 549, 556 (2d Cir. 2009) (internal quotation marks and alteration omitted).

The alternatives analysis required under NEPA, 42 U.S.C. § 4332(2)(C), “should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among the options by the decisionmaker and the public.” 40 C.F.R. § 1502.14. The alternatives analysis must include “the alternative of no action” as well as “reasonable alternatives not within the jurisdiction of the lead agency.” *Id.*; see also 46 Fed. Reg. 18,026, 18,027 (March 23, 1981) (“An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable.”). This analysis of alternatives is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14; see also *Monroe Cty. Conservation Council*, 472 F.2d 693, 697-98 (2d Cir. 1972) (characterizing the “requirement for a thorough study and a detailed description of alternatives” as “the linchpin of the entire impact statement”). Courts have made clear that this requirement:

ensure[s] that each agency decision maker has before him and takes into proper account all possible approaches to a particular project (including total abandonment of the project) which would alter the environmental impact and the cost-benefit analysis. Only in that fashion is it likely that the most intelligent, optimally beneficial decision will ultimately be made.

*Calvert Cliffs’ Coordinating Comm., Inc. v. Atomic Energy Comm’n*, 449 F.2d 1109, 1114 (D.C. Cir. 1971) (emphasis added).

In order to ensure that this alternatives analysis is not hampered by a rigid concept of what is needed at the outset of the NEPA process, agencies must consider alternatives that meet only part of the stated purpose of the proposed action. See *North Buckhead Civic Ass’n v. Skinner*, 903 F.2d 1533, 1542 (11th Cir. 1990) (“A discussion of alternatives that would only partly meet the goals of the project may allow the decision maker to conclude that meeting part of the goal with less environmental impact may be worth the tradeoff with a preferred alternative that has greater environmental impact.”); *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 836 (D.C. Cir. 1972) (“[It is not] appropriate . . . to disregard alternatives merely because they do not offer a complete solution to the problem.”).

Similarly, it is essential that the agency does not define the “purpose and need” for the project so narrowly as to preclude consideration of viable alternatives. As the courts have made clear, federal agencies cannot constrain the alternatives analysis through “wholesale acceptance” of the applicant’s definition of the project objective. *Simmons v. U.S. Army Corps of Eng’rs*, 120 F.3d 664, 669 (7th Cir. 1997) (explaining that agencies have “the duty under NEPA to exercise a degree of skepticism in dealing with self-serving statements from a prime beneficiary of the project”) (citation omitted). While the applicants may prefer to build an expensive new transmission line, which will yield a substantial (12.9 percent) rate of return on investment, construction of the S-R Line is not the goal that should guide formulation of alternatives for study in the EIS. Rather, “the evaluation of ‘alternatives’ mandated by NEPA is to be an evaluation of alternative means to accomplish the general goal of an action—in this case, maintaining reliability of the electric grid. *Id.* (emphasis added) (citations omitted) (holding that the agency had “ruined its environmental impact statement” by focusing solely on the type of solution favored by the applicant and “never look[ing] at an entire category of reasonable alternatives”).

**A. The Final EIS Must Disclose Information Necessary To Evaluate the No Action Alternative**

As NEPA requires, the Park Service has given detailed consideration to the impacts on the Parks of maintaining the status quo or the “no action” alternative. However, the DEIS provides no meaningful analysis to inform the ultimate question whether selection of the environmentally preferred no-action alternative is a viable proposition. The DEIS correctly notes that “[u]se of distributed energy generation sites and localized renewable energy is one of a number of possible reactions of PJM and the applicant (and others) if the NPS selects the no-action alternative,” DEIS at 67, but the DEIS reflects no effort to investigate whether the no-action alternative is actually consistent with the basic purpose and need for the project—that is, to ensure grid reliability.

As discussed above, the Park Service’s preservation mandate demands selection of the no action alternative. Given the pressure that the Park Service will inevitably encounter to approve construction of a project that is purportedly needed for reliability reasons, it is incumbent on the agency to avoid a conflict (or the appearance of a conflict) between the Organic Act and National Electric Reliability Corporation (“NERC”) reliability standards. Thus, it is crucial that the agency reach out to PJM and sister agencies with relevant expertise such as the Department of Energy and the Federal Energy Regulatory Commission to reassess the need for a new 500kV transmission line that crosses the Parks.

As the Park Service may be aware, there have been several significant changes in circumstances since the S-R line was ordered into service by PJM and approved by the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities. Notably, in proceedings to obtain PUC and BPU approvals, the applicants maintained

that the line was needed in service by 2012 to avoid a raft of alleged reliability issues, but the in-service date for the line has now been pushed back three years without jeopardizing the grid.<sup>3</sup>

PJM has acknowledged that any reliability issues will be adequately addressed without the line until at least 2015. In its 2010 Regional Transmission Expansion Plan (“RTEP”), PJM concluded that “extending the Reliability Must Run (RMR) status for Hudson Unit #1 into 2012” and “implementing demand resources” could stand in the stead of the Susquehanna-Roseland line in the 2012–2015 time frame. *See* PJM 2010 Regional Transmission Expansion Plan, PJM, 8-9 (Feb. 28, 2011) (“2010 RTEP”).<sup>4</sup> More recently, at a Transmission Expansion Advisory Committee (TEAC) meeting on August 4, 2011, PJM reported its conclusion based on updated analysis that “sufficient [demand response] exists to control the loadings on the constrained facilities for 2012 through 2014 even without Hudson 1.” Transmission Expansion Advisory Committee, PJM, 36 (Aug. 4, 2011).<sup>5</sup> As a result, PJM is permitting retirement of the Hudson Unit # 1. *See id.* In short, demand response resources alone have proven sufficient to address the need for the Susquehanna-Roseland line for at least the next three years.

Now, the Park Service should request that PJM address the question whether there is still a need for the line after 2015 in light of: (1) declining electricity demand; (2) diminishing reliability concerns; (3) increasing availability of demand response resources; (4) completed transmission upgrades; and (5) development of new generation that is currently in the transmission queue.

### 1. Reductions in Electricity Demand

PJM has recognized substantial reductions in the demand for electricity, including in the area that the Susquehanna-Roseland line is intended to serve. On January 14, 2011, PJM released the 2011 Load Forecast Report, in which it presented markedly lower electric demand forecasts than had previously been used as the bases for transmission planning. *See* 2011 PJM Load Forecast Report, PJM Res. Adequacy Planning Dep’t, 1 (Jan. 2011) (“2011 Load Forecast Report”) (“A downward revision to the economic outlook for the PJM area has resulted in lower peak and energy forecasts in this year’s report, compared to the same year in last year’s report.”).<sup>6</sup> The impacts of these lower peak and energy forecasts have been noteworthy and are only “beginning to unfold in the 2011 [Regional Transmission Expansion Plan (“RTEP”)] cycle of analyses.” 2010 RTEP at 12.

<sup>3</sup> In approving the S-R Line, the New Jersey BPU expressly found that “reliability violations are . . . projected to occur as early as 2012 and that the Project is reasonably necessary for [sic] address those violations.” N.J. Bd. of Pub. Utils., Decision and Order, Docket No. EM09010035 at 53 (April 21, 2010) (“BPU Decision”).

<sup>4</sup> Available at <http://www.pjm.com/documents/reports/~/media/documents/reports/2010-rtep/2010-rtep-report.ashx>.

<sup>5</sup> Available at <http://www.pjm.com/~/media/committees/groups/committees/teac/20110804/20110804-reliability-analysis-update.ashx>.

<sup>6</sup> Available at <http://pjm.com/~/media/documents/reports/2011-pjm-load-report.ashx>.

So far, updated analyses based on the 2011 peak load forecasts have resulted in PJM's decision to suspend two major transmission lines, both of which PJM approved in 2007, along with the Susquehanna-Roseland line, to address reliability violations as early as 2012. The Potomac-Appalachian Transmission Highline ("PATH"), a project designed to increase transfer capacity between western and eastern PJM (as the Susquehanna-Roseland is intended to do) originally was identified in PJM's 2007 RTEP with a required in-service date of 2012. *See* PJM 2009 Regional Transmission Expansion Plan, PJM, 6 (2010) ("2009 RTEP").<sup>7</sup> The 2008 RTEP delayed the in-service date to 2013, and the 2009 RTEP again deferred the project until 2014. *Id.* at 6-7. Assessments based on the 2011 peak load forecasts now have compelled PJM to suspend the PATH project indefinitely. *See* Press Release, PJM, PJM Board Directs Delay in PATH Transmission Line (Feb. 28, 2011)<sup>8</sup>; *see also* 2010 RTEP at 12 ("Based on [the 2011 Load Forecast] and initial power flow assessments of the earliest need for PATH, the PJM Board announced on February 28, 2011 its decision to suspend the PATH project . . .").

The Mid-Atlantic Power Pathway ("MAPP"), another west-to-east transmission project approved by PJM in 2007, originally was deemed necessary by 2013 to address reliability violations. *See* 2009 RTEP at 7, 83. The 2009 RTEP deferred the project until 2014. *Id.* at 83. Now, in light of the 2011 load forecasts, PJM "has decided to hold the MAPP project in abeyance" with a 2019 to 2021 in-service date. *See* Letter from Michael J. Kormos, Senior Vice Pres., PJM, to David M. Velazquez, Exec. Vice President, Pepco Holdings, Inc. (Aug. 18, 2011).<sup>9</sup> The Indian River-Salem portion of MAPP has been abandoned entirely.

In addition, the 500-kV Branchburg-Roseland-Hudson line, which was originally slated to be in service in 2012, has been abandoned in favor of a more modest alternative—local 230kV upgrades—because there are now fewer and less severe issues in northern New Jersey. In short, the lower projections in the 2011 Load Forecast Report have led PJM to suspend construction of several west-to-east transmission projects that have been part of the RTEP process since 2007.

This downward trend in load demand, which has helped to eliminate the need for the PATH and MAPP projects, has only become more pronounced since 2011. In January, PJM released its 2012 load forecast report and once again indicated that its projections had to be adjusted downward. *See* PJM 2012 Load Forecast Report, January 2012 at 1.<sup>10</sup> In summary, the report states, "The combination of the new economic driver and a downward revision to the economic outlook for the PJM area has resulted in lower

<sup>7</sup> Available at <http://pjm.com/documents/reports/rtep-report/~media/documents/reports/2009-rtep/2009-rtep-report.ashx>.

<sup>8</sup> Available at <http://pjm.com/~media/about-pjm/newsroom/2011-releases/20110228-RTEP-announcement.ashx>

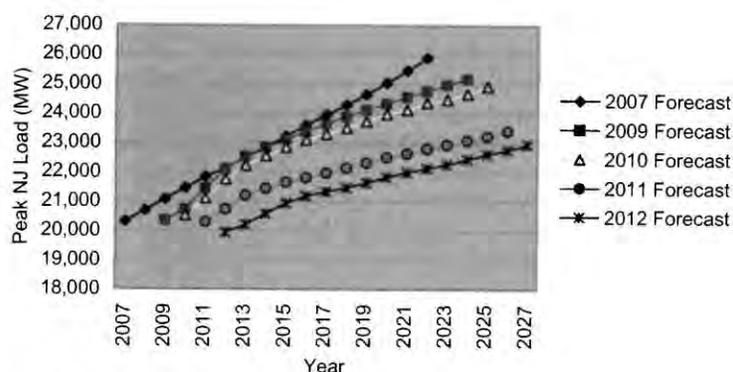
<sup>9</sup> Available at <http://www.pjm.com/~media/documents/reports/mapp-letter-to-phi.ashx>.

<sup>10</sup> Available at <http://pjm.com/~media/documents/reports/2012-pjm-load-report.ashx>. For a useful summary of the report, PJM's slides for presentation to the Load Analysis Subcommittee are available at <http://www.pjm.com/~media/committees-groups/subcommittees/las/20120105/20120105-pjm-2012-load-forecast-report.ashx>.

peak and energy forecasts in this year's report, compared to the same year in last year's report. *Id.*

The graph below shows how the load forecasts New Jersey's four utilities have changed since 2007 (the year PJM first identified a need for the S-R Line) up through the latest 2012 forecast.<sup>11</sup> In 2007, PJM forecasted that the 2012 peak NJ load would be 22,122 MW. In 2012, PJM forecasts that this level of demand will not be reached until 2022, ten years later. While load growth is not the only driver for transmission, it is one of the most important.

**Annual Peak Load Forecasts, NJ Utilities**



The current forecast for 2012 peak demand is below the 2007 forecast for 2007. In 2007, there was no concern that a major new transmission line was needed to deliver electricity reliably to New Jersey. Moreover, the decrease in the forecast between 2010 and 2012 is likely greater than the incremental increase in transfer capability that the line would provide—making previous analysis regarding the need for the line irrelevant.

## 2. Elimination of Reliability Issues

The consistently diminishing need for the PATH and MAPP lines with each passing year—a trend that ultimately resulted in the suspension of those projects in light of the 2011 load forecast—is paralleled in the case of the Susquehanna-Roseland line. PJM first found the Susquehanna-Roseland line necessary in 2007 to address reliability issues beginning in 2012. *See* BPU Decision at 51. The 2008 RTEP projected 2 Category A, 21 Category B, and 27 Category C contingencies that the line was ostensibly intended to address. *See id.* Later, in its March 2009 Retool analysis, PJM projected only thirteen Category B and ten Category C contingencies. *See id.* Then, the 2010

<sup>11</sup> Source: PJM Load Forecast reports dated 2007 and January 2009, 2010, 2011, and 2012. The chart shows the sum of non-coincident peak loads, assuming conservatively (as PJM does) that these peak loads will occur at the same time. If they occur at different times, then the New Jersey peak load will be lower than the sum of the peak loads of the four utilities.

RTEP showed a dramatic reduction in alleged reliability issues—from the 23 contingencies identified in the March 2009 Retool to only 5 Category C contingencies, all on 230kV lines. *See* 2010 RTEP at 217.

Category C contingencies, also known as “double circuit tower line contingencies” reflect a test of the electric system that is highly unlikely to play out in reality. Thus, based on PJM’s last analysis, the S-R Line would be constructed to address five extraordinarily speculative reliability concerns that would occur only on lower-voltage transmission lines that are likely amenable to lower cost fixes. Before taking any action that would adversely impact the Parks, the Park Service should request that PJM update its analysis using a 2015 base case that reflects current demand projections as discussed above and current projections regarding the availability of load management resources, as discussed below. While the 2010 RTEP affirmed the need for the S-R Line based on the remaining five reliability issues, PJM has failed to undertake baseline studies after 2012, relying instead on “retool” analysis using updates of the 2007 data base. This outdated analysis cannot serve as a justification either for building a \$2 billion transmission line or compromising the integrity of the Parks.

### **3. Demand Response and Energy Efficiency**

Increased availability of demand response resources is another key factor that should help to eliminate any need for the S-R Line (by further reducing the need to deliver electricity to load centers). The 2011 Load Forecast Report projected significant increases in demand response resources, noting that “[a]ssumptions for future Load Management (LM) have increased significantly from the 2010 Load Report (from approximately 6,800 MW to 9,000 MW).” Ex. E, 2011 Load Forecast Report at 2. The results of the latest Reliability Pricing Model (“RPM”) auction, which were not incorporated into the 2010 RTEP, confirm this increase in demand resources. The 2014/2015 RPM Base Residual Auction, which opened on May 2, 2011, procured 14,118 MW of demand response, a 52 percent increase over the amount of demand resources cleared in the previous year’s auction. *See* Press Release, PJM, Demand Resources and Energy Efficiency Continue to Grow in PJM’s RPM Auction (May 13, 2011), <http://pjm.com/~media/about-pjm/newsroom/2011-releases/20110513-rpm-results-news-release.ashx>. At the same time, energy efficiency programs continue to gain momentum, delivering permanent reductions in load demand.

In 2012, PJM expects reliance on demand response to grow even further. The January Load Forecast Report concludes that “Assumptions for future Load Management (LM) have increased significantly from the 2011 Load Report (from approximately 9,000 MW to 14,000 MW).” 2012 Load Forecast Report at 2. In addition, PJM reports that “Energy Efficiency (EE) impacts have increased from approximately 550 MW to 800MW.” *Id.* (noting that “assumptions for both LM and EE are based on Reliability Pricing Model (RPM) auction results”).

#### 4. Changes to the Grid

Since the S-R Line was first planned, many transmission projects have been completed and new generation facilities have been planned or built. These changes underscore the need for new analysis of need using a new base case that reflects the grid as it is now and how it is expected to be in 2015 when the S-R Line is purportedly needed.

While the Park Service may be reluctant to undertake technical analysis to evaluate the current need, if any, for the S-R Line, that analysis is essential to inform consideration of the no action alternative and other alternatives that could potentially avoid damage to the Parks. The Park Service can and must request new load flow analyses to inform the pivotal question whether the S-R Line is needed or whether the project can be abandoned or replaced with a more modest fix.

##### B. The Final EIS Must Consider Alternatives in Addition to Alternative Routes

While the DEIS analyzes several alternative routes in detail, it fails to present any alternative other than the no action alternative that would avoid or minimize impacts to the Parks. As the DEIS itself makes clear, “[a]ll of the action alternatives described in this section have alignments that would cross at least two units of the national park system,” DEIS at 29, and each alternative results in unacceptable impacts accordingly. *See, e.g., id.* at 679-714.

In the Final EIS, the Park Service must define the project purpose and need more broadly to allow for consideration of alternatives other than a 500kv line that would ensure electric reliability without impairing or otherwise degrading Park resources and values. As discussed above, the Park Service is under a constant obligation to avoid or mitigate adverse impacts to the greatest extent possible. *See* NPS, Management Policies § 1.4.3. The agency cannot fulfill this obligation without considering alternatives that are consistent with preserving Park resources and values.

Specifically, the Park Service should give earnest consideration to the following alternatives that it summarily dismissed in the DEIS:

- **Underground transmission lines:** The DEIS rejected this alternative “because its construction cost would be five to eight times the cost of conventional construction methods” and “blasting the bedrock for an underground line could produce major irretrievable and irreversible impacts on geology.” DEIS at 67. However, the Park Service cannot reject an otherwise feasible alternative solely because it is more expensive than the applicant’s proposal. The Final EIS should consider whether it may be possible to bury portions of the line without destroying geological formations.
- **Superconductor lines (direct current):** This alternative was also rejected on

cost grounds without any attempt to show that costs of “three to five times that of conventional transmission line construction” would be unaffordable. *Id.* Nor is there analysis of what impacts would result from new converter stations.

- **Aluminum conductor composite core (ACCC):** ACCC conductor is designed to carry twice the current of a conventional conductor, with lighter core allowing the use of more aluminum without a weight penalty. In this way, using ACCC has the potential to enable longer spans between fewer and shorter structures (*i.e.* towers), and it can increase transfer capacity while improving line and reducing line losses by as much as 30 to 40 percent according to vendors.<sup>12</sup> Nevertheless, ACCC was dismissed from consideration in the alternatives analysis on grounds that “it is not a separate alternative by itself.” DEIS at 67. However, to the extent that ACCC has the potential to reduce tower height and perhaps the overall need for towers, it should be given upfront consideration in the EIS, rather than deferring consideration of its use until after the NEPA process is over.

- **Smart grid:** The DEIS dismissed this alternative because it allegedly “does not meet the reliability requirements put forth by PJM.” *Id.* (explaining that “smart grids provide automated switching for transmission lines but do not provide the redundancy required to meet improved reliability requirements for the transmission grid”). However, the Park Service is required to consider alternatives that may partially meet the project’s purpose and need. In any case, it is unclear whether there are any remaining reliability issues for the S-R Line to resolve.

- **Distributed energy generation sites and localized renewable energy:** The DEIS declines to consider these potentially viable alternatives because “ordering the adoption of such systems is beyond the authority of the NPS.” However, as set forth above, agencies must consider alternatives that are outside of their jurisdiction to implement.

In addition, the Final EIS must consider:

- **Alternative Transmission Fixes:** Given the small number of reliability issues in play, the Park Service should investigate alternatives tailored to what has become a modest concern related to lower-voltage transmission lines.

- **Energy Efficiency, Energy Storage, and Demand Response:** The Park Service should analyze whether targeted energy efficiency and/or demand response systems could eliminate the need for additional transmission delivery capacity into the areas that the S-R Line is intended to serve. As the DOE emphasized in a recent national congestion study, “alternatives other than transmission, such as increased local generation (including distributed generation), energy efficiency, energy storage and demand response may be more economic than transmission expansion in relieving congestion” —

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<sup>12</sup> See <http://ctccable.com/pdf/ACCCOverview.pdf>.

and more environmentally friendly as well. See DOE, *National Electric Transmission Congestion Study*, vi (Dec. 2009) (available at [http://congestion09.anl.gov/documents/docs/Congestion\\_Study\\_2009.pdf](http://congestion09.anl.gov/documents/docs/Congestion_Study_2009.pdf)).

- **Lower and less intrusive transmission towers:** The proposed 200-foot towers would ensure that the S-R Line is far more visible than existing power lines in the Parks. Further, the height of these towers dictates the large size of their bases, necessitating more blasting, filling of wetlands, clearing and cutting, and general disturbance of vegetation and wildlife—and significantly more expense, particularly in foundation and materials costs (*e.g.* steel). The applicant has an incentive to overbuild the S-R Line, for which it can recover not only its costs but a very high rate of return (12.9 percent) on investment. The Park Service should not assume that the towers or other infrastructure need to be built to the applicant's proposed specifications. Nor should it leave the critical engineering decisions to subsequent planning outside the NEPA process as the DEIS currently proposes to do. See DEIS at 41 (stating that “[t]he types of towers that would be used in the construction of the S-R Line would be determined during planning”).

As noted above, it appears from the visual representations in Appendix K that the Park Service is assuming that the towers will be monopoles. On the one hand, the Park Service should evaluate whether the use of monopoles represent an alternative that could have slightly lesser visual impacts than lattice towers, but on the other, the Park Service must be mindful of the blasting that monopoles may require and consider other alternatives to minimize harm to geological resources.

#### IV. THE EIS MUST FULLY DISCLOSE ADVERSE IMPACTS THAT WOULD FLOW FROM CONSTRUCTION OF THE S-R LINE

The EIS must address the full suite of environmental impacts, both direct and indirect, that will flow from construction of the S-R Line together with the cumulative impact of other planned and foreseeable development that will impact the lands within the project's footprint—both inside and outside of the Parks. See 40 C.F.R. §§ 1508.25(c)(1)-(3). As defined by NEPA's implementing regulations, “direct effects” are impacts “caused by the action and occur at the same time and place.” *Id.* § 1508.8(a).<sup>13</sup> “Indirect effects” are impacts caused by the proposed action but “are later in time or farther removed in distance.” *Id.* § 1508.8(b). “Cumulative impact” means “the impact on the environment which results 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 action.” *Id.* § 1508.7. “Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” *Id.*

<sup>13</sup> The words “effect” and “impact” are used synonymously in NEPA's implementing regulations. See 40 C.F.R. § 1508.8.

**A. The Final EIS Must Provide a Meaningful Analysis of Impacts Outside the Parks**

The DEIS purports to analyze the impacts of the S-R Line outside of the Parks as NEPA requires,<sup>14</sup> but throughout the document, the Park Service fails to provide any meaningful analysis of such impacts on grounds that “[t]he NPS cannot require the applicant to follow a certain route outside the boundaries of park lands.” DEIS at 29. Repeatedly, the DEIS states that “the portion of the route outside park lands is not discussed in detail” for this reason. *Id.*; *see also, e.g., id.* at 371 (“the specific wetland resources that would be affected by the transmission line outside the study area cannot be identified until the route is chosen by the applicant”); *id.* at 404 (“Because the location of the S-R Line outside the terrestrial study area cannot be determined at this time, the indirect impacts on landscape connectivity, wildlife habitat, and wildlife cannot be evaluated per alternative.”); *id.* at 434, 658 (“Because the NPS cannot dictate where the line would actually go, the direct impacts from the construction and maintenance of the transmission line outside the study area cannot be determined.”); *id.* at 480 (“Because the location of the S-R Line outside the study area cannot be determined at this time, the indirect impacts on rare and unique communities cannot be evaluated per alternative.”).

Vague and highly generalized statements regarding the potential for adverse impacts across the project area cannot substitute for the detailed analysis of impacts that NEPA requires to ensure informed decision-making and most importantly, an opportunity to avoid or mitigate environmental harms.

**B. The Final EIS Must Provide a Meaningful Analysis of Cumulative Impacts**

The DEIS analysis of cumulative impacts both inside and outside the Parks is similarly unhelpful. While the Park Service lists various foreseeable projects and development, the DEIS does not attempt to quantify or otherwise characterize with any particularity how these new pressures on natural, scenic, and cultural resources will collectively manifest. For example, with respect to cumulative impacts on floodplains

<sup>14</sup> As NEPA’s implementing regulations make clear, agencies must consider major federal actions, such as ROW approvals and Section 404 permits, in conjunction with other “connected actions.” 40 C.F.R. § 1508.25 (mandating that agencies “shall consider” connected actions “[t]o determine the scope of environmental impact statements) (emphasis added). “Actions are connected if they . . . [c]annot or will not proceed unless other actions are taken previously or simultaneously” or if they “[a]re interdependent parts of a larger action and depend on the larger action for their justification.” *Id.* §§ 1508.25(a)(1)(ii),(iii); *see also Alpine Lakes Protection Soc’y v. U.S. Forest Service*, 838 F. Supp. 478, 482 (W.D. Wash. 1993) (affirming that the requirement to consider connected actions “extends to non-federal actions undertaken exclusively by private parties if the federal actions are so interrelated as to constitute ‘links in the same bit of chain’”) (quoting *Morgan v. Walter*, 728 F. Supp. 1483, 1493 (D. Idaho 1989) (quoting *Sylvester v. U.S. Army Corps of Engineers*, 884 F.2d 394, 400 (9th Cir. 1989)). For a more detailed discussion of the Park Service’s obligation to analyze the entire length of the S-R Line in the EIS, please see the March 12, 2010 scoping comments submitted by Earthjustice and the Sierra Club, which we incorporate by reference.

outside the study area, the DEIS states as follows:

Outside the study area, adverse cumulative impacts on floodplains would be expected from residential, commercial, and transportation development of the area. Adverse cumulative impacts would result from these projects due to the continued growth and urbanization in the area outside the parks, which may reduce natural floodplain functions through direct impacts, such as the placement of structures in the floodplain, or indirect impacts, such as increased runoff due to increased impervious surfaces. Several land protection programs could provide beneficial impacts on floodplain functions. As stated above, the funding for these programs is uncertain and could vary throughout the period of analysis; therefore, the level of benefit resulting from the implementation of any project is also variable. There would be adverse cumulative impacts on floodplains outside the study area.

DEIS at 357. Ultimately, the reader is left with the sole conclusion that cumulative impacts will be “adverse.” This general observation does not allow for a meaningful comparison of alternatives or the development of well-tailored mitigation measures. Nevertheless, the DEIS adopts this approach to cumulative impacts analysis repeatedly.

“A cumulative impact analysis “must be more than perfunctory; it must provide ‘a useful analysis of the cumulative impacts of past, present, and future projects.’” *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1075 (9th Cir.2002) (quoting *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 810 (9th Cir.1999)). “To be useful to decision makers and the public, the cumulative impact analysis must include ‘some quantified or detailed information; . . . general statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.’” *Northern Plains Resource Council v. Surface Transp. Bd.*, -- F.3d --, 2011 WL 6826409 (9th Cir. Dec. 29, 2011) (quoting *Ocean Advocates v. U.S. Army Corps of Eng'rs*, 402 F.3d 846, 868 (9th Cir. 2005)).

### **C. The Final EIS Must Take a Hard Look at Impacts Not Addressed in the DEIS**

In the Final EIS, the Park Service must revisit important issues that it either dismissed from consideration in the DEIS or overlooked. Failure to consider these issues will necessarily render the EIS inadequate.

#### **1. Air Quality**

The Park Service must consider the impacts on air quality resulting from the S-R Line. Each of the action alternatives that the Park Service proposes will have significant impacts on air quality during construction, which would involve not only the line itself but also access roads, and, in some alternatives, deconstruction of existing power lines.

This construction will require large diesel trucks to haul heavy equipment through the Parks and the surrounding communities. Bulldozers, dump trucks, and road graders will operate at the site. Cement trucks and tractor trailers will also travel through surrounding communities to operate at the site. All of this equipment will emit exhaust and create fugitive dust that will impact surrounding air quality.

In addition, the S-R Line may have pervasive indirect effects on regional air quality. As the line is expressly intended to open up eastern power markets to coal-fired power generators in western PJM,<sup>15</sup> it can be expected to drive increases in power generation at coal-fired power plants that currently are operating below capacity.<sup>16</sup> Increased reliance on coal in the East Coast has the potential to significantly degrade air quality by increasing emissions and ambient concentrations of air toxics such as mercury<sup>17</sup> and other dangerous pollutants such as fine particulate matter (PM2.5) or “soot,” sulfur dioxide, nitrogen oxides, and ozone. This pollution would harm public health and further exacerbate endemic acid rain and smog problems, which, not incidentally, plague many national parks. While new Clean Air Act regulations may address these impacts to some extent, there are no regulations in place to curb increased emissions of carbon dioxide (CO<sub>2</sub>), which is the principal agent of climate change.

The Park Service cannot ignore the increase in coal-fired power production that the S-R Line would encourage. An agency must consider the growth-inducing impacts of its actions. *See, e.g., City of Davis v. Coleman*, 521 F.2d 661, 675-76 (9th Cir. 1975). Here, the science of air pollution transport from fossil-fuel-fired generation in the Ohio Valley to the states downwind along the Eastern Seaboard is well-established. EPA has studied air pollution transport for decades and has demonstrated repeatedly that power plants are significant contributors to air pollution problems along the Eastern Seaboard.

The pollutants generated by power plants in Pennsylvania and the Ohio River Valley will be transported to the Philadelphia and Newark metropolitan areas. Both metropolitan areas, which include counties in Pennsylvania and New Jersey, are in non-attainment of the National Ambient Air Quality Standards (“NAAQS”) for ozone. Also, several counties in Pennsylvania and New Jersey are designated non-attainment for PM2.5. Increased emissions from the S-R Line would exacerbate the health and environmental risks posed by non-attainment of the NAAQS and impede the ability of these states to come into attainment.

<sup>15</sup> See Testimony of Karl Pfirrmann, President PJM Western Region PJM Interconnection, L.L.C., filed in FERC Docket No. AD05-3-000 (May 12, 2005).

<sup>16</sup> See John Roger, et al., *Importing Pollution: Coal's Threat to Climate Change in the U.S. Northeast*, 11 (2008), available at [http://www.ucsusa.org/assets/documents/clean\\_energy/importing-pollution\\_report.pdf](http://www.ucsusa.org/assets/documents/clean_energy/importing-pollution_report.pdf).

<sup>17</sup> Atmospheric deposition of mercury from polluting sources such as coal plants, the largest contributors to nationwide mercury emissions, have caused both Pennsylvania and New Jersey to issue fish consumption advisories. See EPA, Mercury, <http://www.epa.gov/hg/about.htm> (“Coal-burning power plants are the largest human-caused source of mercury emissions to the air in the United States.”); see also *Commonwealth of Pennsylvania Public Health Advisory: 2012 Fish Consumption*, available at <http://fishandboat.com/fishpub/summary/sumconsumption.pdf> (last visited Jan. 31, 2012); *Fish Advisory*, New Jersey Dep’t of Env’tl. Prot. (2011), <http://www.state.nj.us/dep/dsr/fishadvisories/freshwater-advisories.htm> (last visited Jan. 31, 2012).

In addition, deposition of pollution from coal-fired power plants into water is responsible for mercury contamination of fisheries, acidification, and eutrophication. Effects include changes in water chemistry that affect aquatic vegetation, invertebrate communities, amphibians, and fish. The deposition of nitrogen also contributes to nutrient enrichment in coastal and estuarine ecosystems, which can cause toxic algal blooms, fish kills, and loss of plant and animal diversity. Deposition also can cause chemical changes in soils that affect soil microorganisms, plants, and trees. Plant species composition and abundance may change where nitrogen overstimulates growth, favoring some types of plant species and inhibiting growth of others. The EIS should address the impacts of increased deposition on waterways, wetlands, floodplains, soils, and vegetation.

## **2. Climate Change and Greenhouse Gases**

The Park Service's failure to address climate change and greenhouse gas emissions in the DEIS must be rectified in the Final EIS. "The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct." *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217 (9th Cir. 2008). "[T]he fact that climate change is largely a global phenomenon that includes actions that are outside of the agency's control does not release the agency from the duty of assessing the effects of its actions on global warming within the context of other actions that also affect global warming." *Id.* at 1217 (emphasis in original) (internal quotation marks and alterations omitted). Thus, even though the Park Service does not control coal plant operations, it still must consider the extent to which its actions will spur increases in CO<sub>2</sub> emissions that contribute to climate disruption.

The DEIS must further consider how adverse impacts associated with the S-R Line would impact the resilience of resident ecosystems in light of threats posed by climate change. For instance, would construction and operation of the S-R Line hinder the ability of plant and animal communities to adjust to climate changes? Over the next fifty years and beyond, the Parks will be increasingly stressed by rapid climate shifts, and it is important to provide as much of a buffer as possible to allow for adaptation.

## **3. Energy Resources and Conservation**

The DEIS does not fully consider the S-R Line's impacts on energy resources and conservation potential. Although the construction of the S-R Line may not affect Park Service facilities, the Park Service has the opportunity to encourage energy conservation in its selection of an alternative. The no action alternative would likely bolster growing reliance on energy efficiency programs.

## **4. Land Use**

While the DEIS recognizes that the S-R Line will affect how land within the park boundaries is used, it does not provide any further detailed analysis of impacts to land

use. However, as the Park Service recognizes, the authorization of the requested right-of-way and special use permit could create a precedent, resulting in many additional Park crossings that incrementally would carve up the Parks. Importantly, the S-R Line is one of several linear utility projects that threatens major adverse environmental impacts in the immediate region. The cumulative impacts of these projects on the land use of the Parks are potentially devastating and must be considered accordingly.

### **5. Geologic Resources**

The DEIS correctly concludes that Alternatives 2, 2b, 3, 4, and 5 would result in adverse impacts to geologic and topographic resources. However, there are several potential impacts to geologic and topographic resources that were overlooked in the DEIS. First, the Park Service states that for the purposes of new tower construction, geotechnical boring would need to occur in order to determine the depth of competent bedrock. *See* DEIS at 350. The geotechnical boring could then be followed the use of chemical compounds that could potentially be released into the environment. The Park Service should assess what compounds will be used, their potential for release, and the potential impacts on soil and geologic resources in the event of release.

Second, in its discussion of impacts to wetlands resources, the Park Service states that Alternatives 2 and 2b would require blasting that could adversely impact unique geologic formations and could lead to a decrease in groundwater availability and quality. With respect to both alternatives, the Park Service states that it does not currently know how blasting would impact unique geologic formations that lie under wetlands that will be impacted, and that a blasting and post-construction monitoring plan would be needed in order to assess these impacts. As discussed above, deferred analysis is not sufficient under NEPA. The Park Service should require the applicants to supply more information on the potential impacts of blasting on these unique geologic formations. Moreover, the applicants should provide a specific blasting plan with respect to each alternative, as well as a post-blasting monitoring plan, and the public should be afforded an opportunity to comment on these plans.

### **6. Floodplains**

The Park Service failed to consider the cumulative impacts of several projects on floodplains. For example, the EIS should assess whether projects including but not limited to the Tennessee Gas Line Proposal, the Columbia Gas Transmission Company pipeline proposal, and the Northeast Supply Link Expansion Project will contribute to adverse impacts on floodplains in the study area. Further, the EIS should assess whether these projects and others, including Marcellus Shale gas development, the Dominion/Allegheny Power Transmission Line project, and other proposed residential and commercial projects in both New Jersey and Pennsylvania could contribute to adverse impacts on floodplains outside the study area. All of these projects could potentially have an adverse impact on the natural flow of rivers and streams and the ability of floodplains to absorb excess amounts of water from increased runoff.

## **7. Wetlands**

The Final EIS must fill in gaps in the DEIS's analysis of impacts to wetlands. The Park Service has not disclosed the impacts of blasting activities along Routes 2 and 2b on wetlands and proper wetlands functioning. This deficiency must be addressed, and a blasting and post-blasting monitoring plan should be provided by the applicant and made available for public review. In addition, while we are pleased that the use of herbicides in wetlands areas in the Parks is not currently contemplated, the Park Service should assess the impacts of potential use of herbicides that may occur in the future and disclose what the impacts would be on wetlands.

## **8. Vegetation**

The DEIS concludes that the applicant's current vegetation management plan is insufficient — a concern we share — and states that the Park Service will have to approve a new vegetation management plan. *See* DEIS at 390. Any such plan must address key issues such as the use of herbicides, the frequency with which vegetation management activities could occur, and reporting and monitoring of vegetation management activities. The Park Service should require the applicant to provide a full vegetation management plan for Park Service approval prior to the issuance of the Final EIS so that the interested public may review the plan and offer comments.

## **9. Landscape Connectivity, Wildlife Habitat, and Wildlife**

The DEIS correctly identifies the loss of habitat connectivity as one of the most severe threats to the survival of many wildlife species. The DEIS further discloses the adverse impacts associated with Alternatives 2 through 5 as a result of the access road construction and widening of the currently existing right-of-way. *See* DEIS at 409-32. In addition, the EIS should include an estimate of the numbers and sizes of construction trucks and other equipment that will be using these access roads, as well as the frequency of vehicle trips. The Park Service should then analyze what impacts the construction equipment could potentially have on the ability of wildlife to move across the impacted landscape.

## **10. Socioeconomics**

The review of socioeconomic impacts in the DEIS failed to address several potential impacts that several of the commenting groups identified in scoping comments submitted to the Park Service on March 12, 2010. The Park Service should address the economic benefits to local communities that arise from proximity to undeveloped public lands and conversely, the detriment associated with construction and operation of a major transmission line.

More broadly, the EIS should fully examine the opportunity costs of energy transmission and generation on federally protected lands in order to ensure that the net

socioeconomic value of the transmission project is maximized. In this analysis, the Park Service should account for all relevant non-market values, including non-use values and impacts on local quality of life and recreational and aesthetic opportunities. One of the most important purposes of public lands is to provide public goods, or non-market goods. Opportunities for solitude, outdoor recreation, clean air, clean water, the preservation of wilderness and other undeveloped areas would be underprovided if left entirely to market forces. Therefore, the Park Service should account for all non-market values provided by the Parks, and assess the devaluing impact of the S-R Line.

### **11. Visual Resources**

The S-R Line will have significant impacts on the visual resources within the Parks as well as more geographically distant locations. The DEIS's visual simulation of impacts within the park is very useful. However, the EIS should also consider impacts on visual resources relative to the time of year, and what the impacts would be if lattice towers rather than monopoles were used.

### **12. Soundscapes**

The EIS does not fully consider noise impacts that may vary seasonally. Under all of the analyzed alternatives, deconstruction/construction is likely to last as long as eight months, and continued maintenance will continue throughout the study period and beyond. For this reason, the EIS should consider the impacts of sound at different times of the year. Although the Parks may see more frequent visitors in during the summer months, sound from construction may be dampened by vegetation. However, in the winter, when most trees have lost their leaves, sounds may travel further or be more intense. Thus, the EIS should consider the impacts of sound relative to the time of year that deconstruction/construction or maintenance is occurring.

Further, the EIS should include consideration of the short- and long-term impacts of increased noise on rare bats, migratory birds, and other sensitive wildlife. The DEIS leaves unanswered questions about how the project's noise disturbances interfere with, or otherwise adversely affect, the displays, mating, foraging, communication, and other behavior of migratory birds and mammals.

### **13. Wild and Scenic Rivers**

The DEIS analysis of impacts on Wild and Scenic Rivers focuses exclusively on the designated segment of the Middle Delaware. However, the Project will have impacts on other Wild and Scenic Rivers outside of the Parks, and these rivers must be considered as well.

### **14. Migratory Birds**

We incorporate by reference the comments on the DEIS submitted by the New Jersey Conservation Foundation.

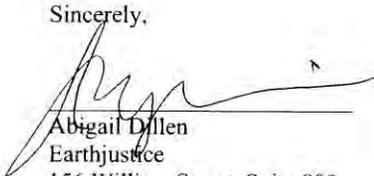
**V. ANY PRE-DETERMINED DECISION WOULD UNDERCUT THE NEPA PROCESS**

Public Employees for Environmental Responsibility (“PEER”) have filed comments stating that the Secretary of the Interior and the Director of the National Park Service have made an oral commitment to select the applicant’s proposed alternative (Route 2). Any such pre-determination of the NEPA process raises serious concern that the EIS will not serve its purpose to engender a thoughtful decision-making informed by a thorough analysis of environmental consequences. Further, NEPA’s implementing regulations prohibit agencies from making any irreversible commitment of resources before the environmental review process, including consideration of alternatives, has been completed. See 40 C.F.R. § 1506.1(a).

**CONCLUSION**

Thank you for the opportunity to comment. Again, we appreciate all of the hard work that has gone into preparation of the EIS and that goes into managing the Parks every day. If you have any questions regarding these comments, please do not hesitate to contact undersigned counsel.

Sincerely,



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January 31, 2011

National Park Service  
Denver Service Center - Planning Division  
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Dear Ms. Elmer,

Thank you for the opportunity to provide feedback on the Draft Environmental Impact Statement ("DEIS") for the Susquehanna to Roseland 500kV Transmission Line Right-of-Way and Special Use Permit. On behalf of Delaware Riverkeeper Network, I offer the following comments, noting at the outset that we appreciate the National Park Service's intensive effort to analyze and disclose this project's environmental impacts on the Delaware Water Gap National Recreation Area, the Appalachian National Scenic Trail, and the Middle Delaware National Scenic and Recreational River (collectively "Parks").

While further analysis is needed to assess (1) the viability of alternatives to building the proposed 500kV line and (2) adverse impacts, including cumulative impacts, outside the Parks, the DEIS conclusively demonstrates that the proposed Susquehanna to Roseland line would impair Park resources in violation of the National Park Service Organic Act. As the Park Service's own analysis makes clear, the agency cannot grant the requested right-of-way and special use permit without fundamentally degrading the unique natural, scenic, and cultural resources that these Parks were established to preserve. While recent news reports suggest that PPL Electric Utilities Corporation (PPL) and Public Service Electric and Gas Company (PSE&G) (collectively "Applicants") may be contemplating mitigation efforts in the form of land purchases or conservation easements, it is not possible to eliminate impairment to areas of special significance by expanding Park boundaries.

We urge the Park Service to deny the requested right-of-way and special use permit. The applicants have presented the agency with a false choice between conserving the Parks as the law requires and maintaining electric reliability. Circumstances have changed dramatically since 2006, when the Susquehanna to Roseland Line ("S-R Line") was identified as needed by PJM Interconnection ("PJM"). The reliability issues that the line was intended to address have largely been resolved; load demand in the areas that the line would serve continues to decline, as reflected in PJM's repeated downward adjustments to its load forecast; robust growth of energy efficiency and demand response resources continues to exceed PJM's

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expectations (as reflected in its modeling assumptions); and development of significant new generation capacity is planned in New Jersey. All of these factors, both individually and collectively, suggest that the \$2 billion S-R Line is an expensive solution to a problem that no longer exists. However, PJM has yet to undertake new load flow analyses to determine whether the S-R Line is actually needed to ensure electric reliability in 2015 (when the S-R Line is scheduled to be in service), or to evaluate whether there are non-transmission alternatives or more modest and less damaging transmission upgrades that would resolve the few outstanding reliability issues, if any, that still remain.

Absent updated analysis by PJM that affirmatively demonstrates the need to build the S-R Line, there is no adequate justification for accommodating a right-of-way request or granting a special use permit for construction that is inherently incompatible with Park values. The Applicants have made no effort to avoid or minimize harm to the Parks, electing instead to propose a route that runs through areas of singular ecological, scenic, and cultural importance. Moreover, the DEIS makes clear that the Park Service has not been able to identify an acceptable alternative route. Under these circumstances, the Park Service can and must issue a Record of Decision (“ROD”) selecting the environmentally preferred “no action” alternative.

#### Cumulative and Indirect Environmental Impacts Outside the Park Not Include in DEIS

The DEIS must address the full suite of environmental impacts, both direct and indirect, that will flow from construction of the S-R Line together with the cumulative impact of other planned and foreseeable development that will impact the lands within the project’s footprint — both inside and outside of the Parks.

The Delaware River and several of its tributaries above and below the NPS’s Middle Delaware have received special designation under the Wild and Scenic Rivers Program. Those reaches, as well as the Middle Delaware, have earned those designations due to exceptional water quality, natural beauty and recreational opportunities.

The DEIS includes the assessment of impacts of the S-R Line on waterways like the Bushkill Creek, Van Campens Brook and many ponds and lakes that flow into the Delaware River in the Water Gap National Recreation Area. These tributary watersheds will be negatively impacted when new or expanded dirt roads are constructed, tree canopy is lost, new sources of sedimentation are introduced - all flowing to the Delaware River as a direct result of this project.

However, it is also critically important for this DEIS fully assess the project’s impacts on water bodies outside the Parks. Specifically, the S-R Line will cross Lackawaxen and many of its tributaries. In each river and stream crossing, there will be significant ground cover disturbance that will impact the water resources. There will also be wetlands, floodplains and forest clearings, all impacting the waters flowing downriver into the Middle Delaware and the Park. Those impacts have not be assessed in the DEIS and should be. The impacts to those water resources are an indirect impact of the S-R Lines and add to the cumulative impacts of this project, so the NPS must review and assess those as required under NEPA guidelines.

Moreover, the Musconetcong River, Paulins Kill River and Pequest Rivers, even though they flow into the Delaware River south of the Middle Delaware, will have an indirect impact to the Middle Delaware River because the S-R Lines cross them. They will each experience the same levels of degradation that the Bushkill and Van Campens will experience, including:

- Significant disturbance of ground cover affecting water resources
- Loss of groundwater recharge in aquifers in surrounding areas of Pennsylvania and New Jersey,

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- Loss of stormwater absorption capacity into the soil that can result in greater flooding downriver,
- Loss of forested lands reducing the value of the National Park as a “carbon sink,”
- Loss of forested lands will also reduce the health of interior forests now protected from the phenomena known as “edge effect,”
- A loss of forested wetlands as the proposed expanded rights-of-way will expose wetlands and vernal pools to more direct sunlight and warmer air temperatures.

Water Quality Impacts Have Been Dismissed From Consideration by the NPS

The NPS states (DEIS, Chapter 1, pg 23) that “Water quality protection is one of the most important responsibilities of the Delaware River Basin Commission; its water quality standards designate the MDSR and the portion of the river and tributaries contained in DEWA as outstanding basin waters.” It appears that the NPS is delegating its own responsibilities to protect the natural resources of the Parks to the DRBC. In fact, PPL/PSE&G has submitted a permit application to the DRBC, however, the DRBC has not ruled on issuing that permit as of this date. The NPS cannot and should not rely on the protection of the water resources within the Parks by other agency actions when they have not made a final determination on the S-R Lines.

Further, NPS declares (Chapter 1, pg 23) that they will not be assessing the water resources in the DEIS by stating:

**Because no construction would be completed in any water bodies and no discharge permit is being requested, impacts to water quality would primarily occur from increased sediment loads being introduced into the stream from construction activities (short term) and from increased erosion due to vegetation loss and new access roads (long term). Analysis of these impacts was conducted using the USFS WEPP model to estimate increased total suspended solids (TSS) concentrations. The WEPP model does not account for the installation of best management practices (BMPs) such as silt fence and straw bales therefore it represents the worst case scenario of 100% failure of required erosion and sedimentation controls. The WEPP model indicated minimal short term and long term increases in TSS for some tributaries and undetectable increases in TSS in the Delaware River. The model did not detect differences between the alternatives. The likelihood of 100% failure of erosion and sedimentation controls is remote so it is unlikely that impacts to surface water quality would be detectable. Therefore, the topic of surface water and water quality is not carried forward in this EIS.**

The NPS is failing to assess the direct or indirect impacts, a requirement of the NEPA process, of this project on direct tributaries to the Middle Delaware or on the tributaries either up-river or down from the Parks. Under these circumstances, the Park Service cannot fully assess the direct and indirect impacts of the S-R Lines on the Parks and should therefore not issue a Record of Decision until that is completed.

Air Quality Impacts Have been dismissed from consideration by the NPS

The NPS has determined (Chapter 1, pg 22) not to assess the indirect impacts of this project, which is contrary to the NEPA requirements. The NPS assessed only the contributions of diesel exhaust and impacts of other greenhouse gases on the Parks only during the construction and maintenance of the S-R Line.

**Construction and maintenance activities associated with the S-R Line alternatives would result in fossil fuel consumption. However, the park is in fact a carbon sink but the issue of the contribution of the alternatives to climate change through greenhouse gas emissions were dismissed from further analysis.**

The NPS is ignoring the known source of energy generation of electricity (coal-fired power plants) that will be transported by the S-R Line. The NPS must consider the indirect impacts of that known, foreseeable pollution source on the Parks. The atmospheric deposition of the air-borne pollutants from coal-fired power plants to the west of the Parks is a well-documented source of contaminants to the Parks and must be assessed in the indirect impacts.

The Park further declares that it will not assess air or water quality impacts since there are already stressors on the air and water resources of the Parks and those adverse impacts will not differ based on the Alternative chosen. This position is contrary to the NPS's mission to protect the resources of the Park. As such, the NPS must fully assess and report what the direct and indirect impacts will be on the air quality of the S-R Line project.

Moreover, the Parks acknowledges (Chapter 1, pg 22) that the Park's ecosystems are under pressure from conditions other than that of climate change, including habitat loss and degradation, development, pollution, toxic chemicals overfishing, invasive species, pests, disease outbreaks, habitat fragmentation, and wildfires.

**Climate change may contribute to the adverse impacts on natural resources expected from the proposed S-R Line. However, these adverse impacts are not expected to increase the intensity of the impacts identified for the alternatives and impacts from climate change are also similar across all action alternatives. In addition, ecosystems are currently under pressure from a number of stressors in addition to climate change, including habitat loss and degradation, development, pollution, toxic chemicals, overfishing, invasive species, pests, disease outbreaks, habitat fragmentation, and wildfires (NABCI 2010, 44). Due to these reasons and the impossibility of predicting the severity of future climate change or its impacts with certainty, this topic was dismissed from further consideration.**

It is absolutely wrong and contrary to its obligation to the NEPA process (and the American people) for the National Parks Service to declare that because these adverse impacts are "impossible to predict" that they don't have to comprehensively assess the direct and indirect adverse impacts to the fullest extent possible. "Dismiss(ing) (these adverse impacts) from further consideration should not be acceptable to the NPS.

#### NPS Identified Potential Data Gaps in EIS

We submit as part of our comment the attached 15-page National Park Service report entitled *Data Gaps Identified for the Susquehanna to Roseland Transmission Line Proposal and Right-of-Way Request Environmental Impact Statement*, dated January 2010. This report identifies many areas where further data and documentation was determined to be missing and/or lacking. Issues include, but not limited to, Air Quality (pg 2), EMFs (pg 4), Water Quality (pg 5), and Vegetation ground cover disturbance (pg 6) and Landscape Connectivity (pg 6). We acknowledge that this report is from 2010 and these data gaps may have already been filled, however, we will take this opportunity to have the NPS determine if each and every one of these missing data have been obtained and are now thoroughly addressed as part of the DEIS.

#### Mitigation offer cannot mitigate damages done to Parks and provides not assurances that they too will not become sites of future utility lines

The Susquehanna Roseland \$30 million mitigation offer that PSE&G/PP&L are proposing to build this massive project is being pitched as a way to "create a half-million acres of contiguous lands" for the National Park. But this promise cannot be used to excuse the sacrifice of the parks and scenic quality they are demanding in exchange. The Delaware Water Gap National Recreation Area, the Middle Delaware Wild and Scenic River and the Appalachian National Scenic Trail are all protected by a long list of

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legislative acts and regulations. But if they can be irreparably damaged to serve private interests today, then the very same can happen to the promised new lands in the future for yet more powerlines or gas pipelines.

The new power lines will tower 50 feet above the trees and be visible from Lake Wallenpaupack to Shawnee Mountain. They cut through the middle of the Poconos where 22.6 million people come and spend \$1.2 billion dollars annually. **The scenic beauty of the region IS the attraction.** How many vacationers and jobs will go elsewhere because now, instead of dining or viewing fall foliage in a scenic river valley, those Pocono guests are looking at transmission lines as far as the eye can see?

The S-R Lines have negative environmental and public health impacts and substantial economic impacts, entirely shouldered by us, the rate payers. Yet the economic impact to the utility is quite different – a profit margin of over 11% guaranteed by law. Don't think for a minute that they are begrudgingly spending this money on our behalf. Rather, we are being forced to spend a great deal of our money on a project we don't need that destroys our parks. The S-R Lines should not be built and no amount of new open space will mitigate the damage done.

#### **National Park Service's Centennial Vision**

The National Park Service is preparing to celebrate its 100<sup>th</sup> anniversary. In preparation the NPS engaged its parks to develop a "vision statement" of how each park would continue to strive to serve the American people through the responsible stewardship of the public lands under their jurisdiction. The NPS's intent was and is to have "America invite the world to discover the meaning of national parks to their lives and inspires people to both experience and become devoted to these special places."

In response to this federal planning effort, Superintendent John Donahue and his DWGNRA staff wrote: a vision statement entitled *The Future of America's National Parks, First Annual Centennial Strategy for the Delaware Water Gap National Recreation Area*.

The stated goal in that Vision Statement is "Delaware Water Gap National Recreation Area (DEWA) exists to provide outdoor recreation opportunities **while conserving the natural, cultural and scenic resources of the park** (emphasis added). In so doing, we work cooperatively with surrounding communities and the public to achieve the conservation goals of the Delaware River region."

"We (DWGNRA) will provide sustainable climate- and user-friendly infrastructure, assuring minimal impact on the park's natural and cultural resources, and will eliminate facilities not complementary to the mission."

The sighting and construction of the S-R Project in the DWGNRA and the assorted power lines that will connect to it that impact other NPS lands (Appalachian National Scenic Trail-Virginia and Harpers Ferry National Historical Park) is in total and opposite contrast to the NPS's and the DWGNRA's Centennial Strategy Initiative. As such, the NPS should deny the Applicant's permit request as it contradicts the stated purpose of the Park and is not consistent to the stated intent of the DWGNRA.

In conclusion, the DEIS makes clear that the Park Service has not been able to identify an acceptable alternative route. Under these circumstances, the Park Service can and must issue a Record of Decision ("ROD") selecting the environmentally preferred "no action" alternative.

Thank you for this opportunity to provide comment. Should you have any questions, please contact me at any of the numbers or email below.

Sincerely,



Fred ~~Stine~~  
Citizen Action Coordinator  
The Delaware Riverkeeper Network  
925 Canal St., Ste 3701  
Bristol, PA 19007  
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Attachment

**Data Gaps Identified for the  
Susquehanna to Roseland Transmission Line Proposal  
And Right-of-Way Request  
Environmental Impact Statement**

**DRAFT**

**January 2010**

*Attachment*

## DATA GAPS

The review of available documents from the Applicants, NPS and outside sources identified gaps in the data needed to complete the EIS. These data gaps<sup>1</sup> are listed below for physical, natural, cultural and other resources:

### OVERALL PROJECT

- The full study completed by the PJM on supply and demand for electricity needs to be obtained. Further, based on recent economic and political changes, this study may need to be updated.
- Cost is the critical factor in the Applicants' choice of alternatives, but is not mentioned as a prime motivation for selecting Route B. The Applicants do not present cost as a critical factor in the choice of the alternatives and instead focus on other factors. If this is the case, additional information or documentation related to costs is needed.
- Full disclosure of potential future use expansions from 500 kV/230 kV to 500 kV/500 kV should be stated.

### PHYSICAL RESOURCES

#### Topography and Physical Features

- The Applicants have suggested that a geotechnical investigation and a blasting plan be completed. The potential impacts associated with this data collection should be discussed.

#### Geology and Soils

- **Erosion and sediment control plans are needed for Monroe County, Pennsylvania and Warren and Sussex Counties, New Jersey; best management practices should also be identified.**

#### Air Quality

- **Estimates of total direct and indirect emissions associated with the construction and operations activities for the S-R Line are needed to determine the applicability of the General Conformity Rule.**
- **Identification of fugitive dust control measures is needed.**
- Information on existing air quality conditions within the study area is needed.

<sup>1</sup> Data gaps include data needed from the Applicants, noted in bold type, data the NPS team will acquire, noted in *italics*, or simply data needed, without identifying who should provide. Data gaps that are highlighted contain information on sensitive species, areas or cultural resources.

### Viewsheds

- More information is needed about views from potentially affected Historic Districts, particularly Millbrook Village. Other districts could be affected based on topography.
- *Appalachian National Scenic Trail Resource Management Plan (NPS, 2008a). Have guidelines, management plans, or policies have been identified?*
- *Previously established NPS methodology used to prepare visual simulations for other sections of the Appalachian Trail may be useful. (such as NPS, 1999, Environmental Assessment for the Protection of the Appalachian National Scenic Trail across Saddleback Mountain Franklin County, Maine. Appendix E: Methodology Used in Preparing Computer and Visual Simulations. June.)*
- Key scenic resources and major vistas within the parks need to be identified, including the water trail, the AT, and other hiking trails. A visual analysis needs to be conducted at specific sites. Information from DEWA about recreational opportunities that may experience visual impacts are needed.
- **Visual simulations previously prepared by the Applicants are needed.**
- *The following resources may be useful to identify visual resource issues related to APPA in other areas:*
  - *USDA Forest Service. 1989. A Visual Resource Analysis of the Appalachian National Scenic Trail on Saddleback Mountain.*
  - *North Carolina State University. 1998. Technical Report: Development of Viewshed Mapping Capabilities for the Appalachian National Scenic Trail, Saddleback Mountain, Franklin County, Maine*
- *Regarding scenic and aesthetic resources in the corridor vicinity (i.e. other county, state and federally identified resources), other state, local or federal agencies or planning offices need to be contacted for additional documents, management plans or policies guiding visual or scenic resources, objectives, or policies within the project viewshed. Important visual and scenic resources identified from such plans or guidelines can be considered applicable 10-20 miles from the project. More information is needed from such sources as proposed alignments are considered.*
- The AT Comprehensive Plan (AT Project Office, 1981) and the APPA Management Plan from the New York/New Jersey Trail Club contain insufficient data. A visual impact analysis is needed.
- Additional information regarding the visual impacts of the taller towers along all Alternatives and any hiking trails that are crossed by the ROW is needed.

### Noise and Soundscape

- *The noise guidelines for New Jersey are presented, but not for Pennsylvania; this information is needed.*
- **Though not included in the Applicants documents, the Applicants discussed some aspects of the transmission design related to soundscapes in a meeting with NPS. The New Jersey Department of Environmental Protection is requiring the 4-conductor transmission line through New Jersey and up to the park's eastern boundary to mitigate corona-effect noise**

(line-buzz). The Applicants do not intend to extend this sound-mitigating design into DEWA or on the Pennsylvania portion of the line and propose to use a cheaper, 3-conductor design in those areas. This information needs to be presented in a formal manner.

- Per the Electric Power Research Institute Red Book 2nd Edition, the following information should be provided in the Proposed Project Plan and Standard Form 299 Information:
  - Radio Noise - Corona and Sparkling do to ionization of the surrounding air. AM Broadcasts, UHF, HF, VHF, Television. Check within a sufficient distance so as not to impact neighboring businesses, communities and authority agency communications.
  - Audible Noise – Corona induced sizzling/crackling and single pitch tone/hum. Similar effects of Radio Noise. Check within a sufficient distance so as not to impact neighboring businesses, communities and authority agency communications.
  - Electric Fields – Space potential and space potential gradient. Conductor to ground and the area between, change in charge.
  - Effects in terms of coupled voltages and currents on nearby motor vehicles and metallic objects. Check entire ROW, 1000' upstream creeks and rivers and trails.
  - Magnetic Fields – static and time-variant magnetic fields exist at a distance either from a constant or time dependent source.
  - EMF – depends on the geometry of the current elements generating the fields according to Biot Savart Law. Other factors are; proximity, lateral distance, line current, soil resistivity, height above or distance below ground. Check entire ROW, 1000' upstream creeks and rivers and trails.
  - Areas impacted throughout the park, trails, rivers and streams. Impact to ground nesting and endangered species need to be considered.
- Noise ordinance information for counties and townships is needed - websites (if available) did not have this information (Delaware Township, Date Unavailable; Milford Township, Date Unavailable; Smithfield Township, Date Unavailable; Montague Township, Date Unavailable; Sandyston Township, 2009; Walpack Township, 2009; Hardwick Township, 2009 )
- A review of information on long-term line noise from proposed conductor sizes is needed (500 kV/230 kV and 500 kV/500kV).

#### Climate Change/Greenhouse Gases

- Information on cumulative impact to climate change and greenhouse gases as a result of the alternatives is needed.

### NATURAL RESOURCES

#### Agency Coordination

Note: NPS will coordinate with the FWS and state agencies after the alternatives have been selected.

- Protected species habitat to be documented using GPS and efforts will be made to avoid these areas during project design
- Need to coordinate with FWS to identify appropriate protection and mitigation measures after selecting a preferred alternative
- **The Applicants will coordinate with NPS and federal agencies to develop conservation measures.**

#### Water Quality

- Water quality information is needed for the waterbodies that will be crossed by the Alternatives and those waterbodies that occur within the study area. Information for Bushkill Creek in Pennsylvania and Van Campens Brook in New Jersey is available in “Water Quality of Streams in and near the Delaware Water Gap National Recreation Area, Pennsylvania and New Jersey, 2002 -04.” Annual Planning Commission reports for Pike and Monroe Counties, Pennsylvania state that there are annual water quality studies performed but do not have any data associated with these statements. Sussex County, New Jersey’s Groundwater Manual states that the Sussex County 208 Water Quality Management Plan has been in effect since 1979, but does not provide any data. Water quality information for Warren County, New Jersey could not be found. This information should be obtained from the states or counties.

#### Aquatic Systems (Streams and Rivers)

- Information on the Neversink River is needed from New Jersey – it is one of the major tributaries of the Delaware River and it is within the NPS study area. This information might be obtained from The Nature Conservancy – New York, Delaware River Basin Commission or New York State Department of Environmental Conservation.
- **The length of the Delaware River traversed by each of the Alternatives is needed; the reports discuss crossing of other water bodies, but not the Delaware River. This information is required for aquatic systems but also applies to viewsheds and visitor experience.**
- **A list of streams and rivers crossed by the transmission line is provided in the Applicants’ reports for areas within the park, but this list needs to be expanded to include the study area and hydrologic features information for the water bodies.**
- **An assessment of potential impacts to and specific mitigative measures for streams and rivers crossed by the transmission line is needed.**
- More information is needed regarding impacts that could affect qualification for inclusion in National Wild and Scenic Rivers System.

#### Wetlands

- Wetland delineations in compliance with NPS guidance is needed for each Alternative, including the transmission line, access roads and construction pads/sites. It appears that the information gathered by the Applicants is either incomplete or not in compliance with NPS standards. The delineations should be mapped as GIS files. All wetlands that could be impacted by the Alternatives need to be mapped. This would include wetlands downslope of

disturbed areas that could affect wetland hydrology. Natural functions of each affected wetland need to be identified and its importance relative to the significance or abundance of the wetland function in the park considered.

- **A wetland mitigation plan is needed.**
- Impacts to floodplains/riparian buffers along the Delaware River and VanCampens Brook are needed.

#### Floodplains

- Information on impacts to floodplains/riparian buffers along the Delaware River and VanCampens Brook is needed.

#### Vegetation

- **October 2009 Warren County, NJ, field work for rare and threatened and endangered plants – this report has not been received yet.**
- Vegetation community characterizations for the study area outside the park by the USGS Vegetation Characterization Program are needed.
- **PSE&G's Vegetation Management Best Management Practices – this report has not been received yet.**
- **The areas of temporary right-of-way clearing and areas of permanent right-of-way clearing within the study area for each alternative need to be identified.**

#### Landscape Connectivity

- **Land surveys delineating the existing ROW are needed**
- **Information is needed on the extent of clearing and the magnitude of impacts associated with the network of access roads. This new system of access roads would result in habitat patchiness, habitat fragmentation and would increase the potential for invasive species introductions. We need to be able to quantify this impact for each of the alternatives – essentially developing fragmentation indices along the alternatives, created by the ROW itself and the accompanying network of access roads. Addressing connectivity and fragmentation issues are particularly important for unique habitats and species of concern – determining percentage of fragmentation per total acreage of these habitats along each of the routes would be important.**
- *Information on prime and unique agricultural lands throughout the study area is needed, this is typically available from NRCS.*
- A forest-stand delineation within the ROW and for access roads and construction pads/sites is needed for all alternatives, which will provide information on habitat fragmentation.
- A habitat fragmentation analysis and information on corridors created by transmission lines is needed for the Alternatives.
- **A mitigation plan for all areas of forest and vegetative clearing is needed.**
- **The Applicants have not addressed the additional ROW width that will be needed to accommodate a power line running parallel to the pipeline in Alternative A. According to a representative from FERC, pipelines should be between 35 to 50 feet away from high**

voltage power lines. High voltage power lines can cause the pipeline to become charged, which is a safety issue and the charge can degrade the pipeline faster. Also the pipeline has to add additional cathodic protection and other mitigation to dissipate the charge.

- Restoration plans are needed for construction staging areas and access roads.
- The percentage of park lands that would be impacted by increased tower height should be identified.
- Evidence that additional ROW is necessary for the use, operation, or maintenance of the primary ROW should be provided.
- *The States of Pennsylvania and New Jersey will be contacted to obtain land use policies, plans or controls that are currently in place within the study area.*

#### **Invasive Species**

- An invasive species monitoring and management plan is needed. A plan exists for DEWA for the Line 1278 Replacement Project. Will the same measures be applied by the Applicants for the S-R Line Project?

#### **Rare and Unusual Vegetation**

- A survey is needed for each alternatives of rare vegetation based on the lists of sensitive plant species provided by the States of Pennsylvania and New Jersey.
- The Applicants suggest obtaining a report for the field work for rare, threatened and endangered plant species for Warren County, New Jersey.
- A plant survey of the Shoemakers Barrens, located about ¼ mile from the ROW of Alternative B is needed.
- Surveys for rare plant species within potentially affected areas of the study area are needed

#### **Wildlife**

- Wildlife habitat assessments, presence-absence surveys, and habitat use surveys are needed to analyze the effects of each alternative and develop mitigation strategies.
- Site-specific wildlife information is needed. The information provided in Applicants' reports is state-wide and does not include fish or other aquatic biota.
- Because lighting can disturb or disrupt wildlife, lighting should be addressed in plans and does not appear to be; this needs to be addressed.

#### **Avian Protection Plan for Migratory Avian Species in the River Corridor**

- Migratory bird surveys are needed for all Alternatives.
- Data/Information is needed on migrant Neotropical passerines in DEWA especially as spring migrants and summer residents (breeding).
- Partners In Flight information is needed for priority species and habitats within Bird Conservation Areas applicable to proposed routes and DEWA.
- Information is needed from the New Jersey Landbirds Project in reference to DEWA.

- An Avian Protection Plan needs to be prepared for migratory birds that use the Delaware River corridor.

**Avian Protection Plan for Migratory Raptors that use Kittatinny Ridge**

- Migratory raptor surveys are needed for all Alternatives.
- Raptor use information specific to Kittatinny Ridge is needed.
- Fall hawk migration data is needed for Kittatinny Ridge and DEWA.
- An Avian Protection Plan needs to be prepared for migratory raptors that use the Kittatinny Ridge.

**Unique or Important Wildlife or Wildlife Habitat**

- Detailed information on the following special habitats is needed: Van Campens Brook Riparian Area, Delaware River Riparian Area, Oughoughton Creek, Hogback Ridge and Cold Air Cave.
- More detailed information about vegetation clearing for the access roads through or adjacent to the Arnott Fen area (on Community Drive) and those habitats adjacent to this wetland complex is needed.

**Federally and State Listed Rare, Threatened and Endangered Species**

- Current information on species of special concern within the study area is needed.
- Habitat assessments and follow-up surveys for species of special concern or listed species, as identified by resource agencies need to be completed.
- **Mitigation plans for impacts to listed species and their habitats must be completed.**
- Surveys for listed herpetofauna habitat must be completed for areas potentially affected by all alternatives. In addition, analysis of probability of listed herpetofauna occurring within these habitats is needed.
- Assessment of the probability of listed mammals using potentially affected areas within the study area for foraging, roosting and hibernation are needed.
- Information on presence, absence, and distribution of listed mollusks is needed. Surveys should be completed in all potentially affected bodies of water.
- Information is needed on listed avian species – are they local or migrant populations?
- Winter surveys of listed avian species should be provided for all applicable areas.
- Impacts analyses and mitigation actions are required for both nesting and wintering listed avian species populations, both short-term (construction related) and long-term (new, higher towers and more lines across the Delaware River).

**Other Important Environmental Resources (Geothermal, Paleontological)**

- Paleontological information within the park and the study area need to be collected. Paleontological Resource Inventory and Monitoring suggests that a large amount of information exists; however, the report does not reference the information geospatially.
- As per NPS, a two-volume report from 1978 by New Jersey State Museum contains additional information on locations of paleontological resources associated with rock outcrops throughout the park; this resource may not be up to date, but it is requested because it would provide useful background information.

**CULTURAL RESOURCES**

- Cultural resource mitigation plans, as applicable
- Consultation with THPOs

Section 106 of the National Historic Preservation Act of 1966 (as variously amended) requires that an APE be defined for any undertaking. For cultural resources, identifying gaps in the existing data is wholly dependent upon the locations of alternate transmission line routings (and associated access roads, etc.) which would constitute the project APE. The APE for historic architectural resources should not be less than the state requirements: PA=1 mile, NJ=1/4 mile (from centerline). As of this time, these alternates have not been finalized. Thus, the following list should be considered hypothetical, yet real-world, potential data gaps.

**Archeological Resources**

- Data gaps occur anywhere a line is proposed that has not been subjected to a Phase I archeological survey since the presence or absence of sites is unknown.
- Data gaps occur anywhere a line is proposed that crosses a previously recorded site(s) that has not been subjected to Phase II archeological evaluation since the potential significance and National Register of Historic Places eligibility of the site(s) is unknown.
- Data gaps occur anywhere a line is proposed that crosses a previously recorded site that has been determined significant and eligible to the National Register of Historic Places, and that cannot be avoided by the line, since the significant data in the site has not been recovered.
- Data gaps occur anywhere a line is proposed that crosses a floodplain area that has not been subjected to deep testing and geo-archeological examination since the presence or absence of deeply buried sites is unknown.
- Data gaps occur anywhere a line is proposed that crosses a known site for which the existing data is spotty, incomplete, or absent (other than a dot on a map, or form).
- Mitigation cost should include in-perpetuity storage of all project-related artifacts, specimens and project archives at NPS facility, per Director's special directive 87-1 and NPS Director's Orders 24 and 28.
- Need Cultural Landscape Reports including landscape treatment recommendations (for possible mitigation measures) for potentially significant landscapes (e.g. Schoonover Mountain House, Watergate, APPA, Old Mine Road, Millbrook Village, etc.)

- Additional ARPA permit needed to complete archeological deep-testing required by NJ SHPO in Delaware River floodplain.
- Mitigation plan for cost of curation of artifacts, specimens, and archival records is needed.
- Information is needed about river traces in DEWA that are prime locations for archeological sites.

### Prehistoric and Historic Structures

Three major factors play into an understanding of data gaps:

1. Location of the APE - Section 106 requires that an Area of Potential Effects (APE) be defined for each federally funded, licensed, or permitted undertaking. The APE is that area within which effects on National Register-listed or -eligible properties can reasonably be determined and taken into consideration. Effects can be either direct (physical) or indirect (visual, audible, or atmospheric). Since the locations of the proposed alternatives have not yet been fully defined, it is not yet possible to define the APE for historic architectural resources. While previous studies have identified resources that will undoubtedly fall within the boundary of the APE, the extent to which the identification and evaluation requirement of Section 106 has been met is currently unknown.
2. Age - Normally historic architectural surveys address resources that are at least 50 years of age at the time of survey. This basic assumption is consistent with the 50-year age consideration of the National Register. However, depending on the dates of previous surveys, some resources that are currently over 50 years of age may not have been addressed previously, even though they were located within a given survey area.
3. Integrity - According to National Register guidance, in order for a resource to be eligible, it must possess integrity, that is, an ability to convey significance. Integrity is assessed through visual examination of the resource. Therefore, even if a resource was previously determined to meet National Register requirements, it may no longer be eligible due to a loss of integrity.

**Recommended Approach** - The most prudent approach to identifying and filling data gaps is to redefine the APE as soon as the locations of proposed alternatives have been finalized. Collected data should be reviewed to determine areas of overlap with the revised APE, and Pennsylvania and New Jersey SHPO files should be searched to identify known resources within the revised APE that may not have been addressed in previous surveys. A field reconnaissance of the revised APE should be conducted to confirm the presence and integrity of previously identified historic architectural resources and to identify other resources that may meet the 50-year age consideration and integrity requirements of the National Register. An evaluation or re-evaluation of significance should be conducted for such resources, as appropriate. An assessment of effects should be conducted to determine the effects of the project on properties listed in or eligible for the National Register.

- Reconnaissance historic architectural surveys
- Fall 2009 Phase IA and IB archeological surveys

- Additional excavation/archeological mitigation may be needed, if Phase Ia and Ib survey testing reveals significant sites in any area of potential effect.
- Survey of all prehistoric/historic structures in APE should be completed, including existing condition, evaluated effect, and proposed mitigation.
- More information is needed on structure design and visual mitigation.
- Information on buildings, structures, districts, and objects within viewshed/vistas, focusing on structure locations specific to DEWA.

#### **Cultural Landscapes**

- More information about views from potentially affected Historic Districts is needed. Other districts could be affected based on topography.
- Have guidelines, management plans, or policies have been identified since the Appalachian National Scenic Trail Resource Management Plan was published?
- Previously established NPS methodology that was used to prepare visual simulations for other sections of the Appalachian Trail is needed, such as NPS, 1999: Environmental Assessment for the Protection of the Appalachian National Scenic Trail across Saddleback Mountain Franklin County, Maine. Appendix E: Methodology Used in Preparing Computer and Visual Simulations. June.
- The following resources may be useful to identify visual resource issues related to APPA in other areas:
  - USDA Forest Service. 1989. A Visual Resource Analysis of the Appalachian National Scenic Trail on Saddleback Mountain.
  - North Carolina State University. 1998. Technical Report: Development of Viewshed Mapping Capabilities for the Appalachian National Scenic Trail, Saddleback Mountain, Franklin County, Maine
- Regarding scenic and aesthetic resources in the corridor vicinity (i.e. other county, state and federally identified resources), other state, local or federal agencies or planning offices need to be contacted for additional documents, management plans or policies guiding visual or scenic resources, objectives, or policies within the project viewshed. Important visual and scenic resources identified from such plans or guidelines can be considered applicable 10-20 miles from the project. More information is needed from such sources as proposed alignments are considered.
- Cultural landscape studies needed for several locations, including areas within DEWA. These locations include: Van Campens Glen, APPA, Old Mine Road Historic District, Watergate, Delaware View, Community Drive
- Landscape studies should include landscape treatment plans that identify mitigation measures.

#### **Ethnographic Resources**

- No documentation of consultation with Delaware Tribe, Delaware Nation, and Stockbridge/Munsee Community is presented. Consultation on Sacred Sites, Indian Trust Resources, and Ethnographic Resources needs to be conducted.

- More information needed to determine if study area is of religious cultural importance to Native Americans.

## **SOCIOECONOMICS**

### **Demographics**

- Specific demographic information is needed. The following reports contain insufficient data: PPL, 2008a PPL, 2009d. More recent data is needed on high level land use; socioeconomic characteristics regarding counties; and acres of private land and private land. The most recent information is contained in NPS, 1987a; need any information that the park has gathered since 1987.
- Machlis et al., 2000 provides demographic, technology, economics, environment, and culture forecasts for the national park service. A localized breakdown and more recent data is needed as required by DO-12.
- More localized, detailed information about zoning, open space, and private ownership is needed than is provided in PPL, 2008b. Updated zoning map for Monroe County is needed as per DO-12. The most recent is 1999.
- Updated land use and zoning map for Pike County is needed – most recent is Pike County, 2005 and Pike County, 2006
- Login information for zoning and accessor information that can be obtained for Sussex County in GIS maps: <http://njgin.sussex.nj.us/iDV/Login.aspx?ReturnUrl=%2fdv%2fdefault.aspx>.
- The value of the trees to be cut, removed, or destroyed within the ROWs needs to be determined.

### **Park Economic Impact on Human Environment**

- This information is required by DO-12 and may be obtained through NPS Money Generation Model.

### **Employment, Occupation and Income Changes**

- Employment, occupation and income change information is required by DO-12 and may be obtained through U.S. Census Bureau.
- Information on jobs created by the construction aspect of the proposed project is needed.

### **Access and Circulation, Traffic and Parking Studies**

- The following plans are needed: Monroe County Short and Long Range Transportation Plans (TIP or LRP); and Local Area Transit Development Plan (TDP) for Nearby Areas within New Jersey and Pennsylvania. This information can be obtained by local counties.

**Minority and Low-Income Populations**

- Minority and low-income population information is required by DO-12 and may be obtained through U.S. Census Bureau; a demographic study is needed to determine if project will impact low income or other populations.

**Real Estate Values**

- This information is required by DO-12 and may be obtained through the States of Pennsylvania and New Jersey.

**VISITOR EXPERIENCE**

**Visitor Use Trends and Surveys**

- More localized data than that available in AT Conservancy, 2009a is needed. This document contains very basic data about the entire trail. It references a 2007 Visitor Count Survey pilot project for the entire trail, which is needed.
- The following report is needed: AT Conservancy 2007 Visitor Count Survey Pilot Project.
- Follow up is required for USDA, 2008. The results of this study will provide a statistically valid, reliable, repeatable and uniform method of collecting and reporting public use data for the entire Appalachian Trail, but more localized data is needed.
- NPS, 2008a does not contain visitor data; this information is needed.
- Any recent progress on the Delaware Water Gap Traffic Safety Study since 2008 is needed.
- What percentage of park lands will be impacted by increased tower height?

**Recreation Resources**

- AT Conservancy, 1981 mentions an emerging pattern of closer-to-home vacations that will probably result in heavier visitor use on some sections. More recent data is needed.
- Surveys of Appalachian Trail users, boat and river users, others are needed regarding the localized use of the Appalachian Trail and DEWA boat and river users.
- Surveys/information is needed on Alternative A's impact to Kittatinny Campground from Ruth Jones at Kittatinny Canoes. The users of this campground are primarily users of DEWA and they look at the recreation area (river, island, etc...) and launch into the park from the campground.
- Information on the number of recreational days lost due to construction is needed.

**ENGINEERING REPORTS**

- The following design information is needed:
  - Areas of impact for all aspects of the design, with accompanying georeferenced files with the footprint area included
  - Need specific details about structure aesthetics
  - Details of specific water crossings

- **Information on water encroachments and aerial water crossings**
- **Information on access roads and staging areas (and restoration plan for these areas)**
- **Number of drainage crossings**
- **Location of culverts and other water quality control measures**
- **Maintenance plan**
- **Information about the impact on airspace to assess safety impacts**
- **Energy requirements**
- The following information is needed:
- **PPL, 2008a – structure and foundation drawings - need detailed AutoCAD or Microstation drawings of structures and foundations proposed within DEWA and PLSCADD structure family for review (PLS pol or .tow format). These files are needed to develop alternatives.**
- **PPL, 2008a– Existing crossings or parallel lines – does not includes line design data (Plan & Profiles) and route maps of existing PPL infrastructure; this information is needed to develop alternatives.**
- **PPL, 2008a – EMF studies – does not include EMF estimated calculations based upon current proposal; this information is needed to develop alternatives.**
- **PPL, 2008a – GIS data mapping - Need all GIS layers (shapefiles) of existing transmission lines, physical, residential and environmental constraints; this information is needed to develop alternatives and analyze impacts.**
- **PPL, 2008a – Transmission Line design - need PLS-CADD .bak files for section of line through DEWA; this information is needed to develop alternatives**
- **PPL, 2008a – Existing Transmission Lines in DEWA - need line condition assessment reports in order to develop alternatives:**
  - **History of transmission line corridor – changes, modifications, maintenance activities**
  - **Highlight new line sections built or modified/ refurbished/ upgraded in the last 2 years to meet similar 500kV standards in and around the DEWA area between Susquehanna and Roseland.**
- **PPL, 2008a, exhibit A – Functional alternatives - Need route maps and GIS mapping of the alternatives considered; this information is needed to develop alternatives.**
- **PPL, 2008a, exhibit B – Route alternatives - Need maps and GIS shapefiles of route alternative along Interstate 80, which was discounted; this information is needed to develop alternatives.**
- **Need documents that legally established the easement for the existing 230kv line. This information is needed to develop alternatives. The line pre-dates the park, and is old enough that the counties involved may need to be visited to obtain the documents, unless the utilities have them on record (they should still be cross-checked against the recorded document at the county) :**
  - **Monroe and Pike County in Pennsylvania**
  - **Warren and Sussex in New Jersey.**
- **Alternatively, a title company could be hired to perform a full title search for the area in question. The following documents have insufficient information: R&RP, 2009a; R&RP, 2009b.**

- PPL and PSE&G, 2008 - Need CAD files of the as-built location of the existing route; this information is needed to develop alternatives.
- Survey work to identify the ROW and digital maps of the survey results as CADD/GIS files; this information should be provided.
- The construction schedule and equipment use should be provided.

#### **URBAN QUALITY AND GATEWAY COMMUNITIES**

- Urban quality and gateway communities information is required by DO-12 and may be obtained from local planning offices.
- Demographic study is needed to determine recreation monies spent, construction activities, etc.

#### **HEALTH AND SAFETY INFORMATION**

- Emergency or disaster evacuation plans/routes from: Monroe and Pike Counties, Pennsylvania Office of Emergency Management; and Warren and Sussex Counties, New Jersey Office of Emergency Management
- **Traffic control plan/general specification for construction activities is needed.**
- **Additional information is needed on measures to prevent adverse impacts to park visitors during construction.**
- Information is needed on health/safety effects of the new transmission line on park visitors.

#### **GIS LAYERS**

- EA requests the following GIS layers:
    - **Proposed access roads for all Alternatives**
    - **Proposed construction pads/pull sites for all Alternatives**
    - **Vegetative areas to be cleared so that it can be used as part of the impacts analysis.**
    - **Other conservation lands – this could include private hunting/fishing clubs, land trust properties, boy/girl scout camps, local county or township parks**
- Soils data for areas of the Alternatives outside of the park. The GIS files from NPS contain soils information for DEWA and Sussex County; soils for Pike, Monroe and Warren Counties are needed. Vegetation outside of the park within the study area land use outside of the park within the study area in Pennsylvania; GIS data from NPS has information for Sussex and Warren Counties

NPS PEPC - Susquehanna to Roseland 500-kV Transmission Line Right-of-Way and Spe... Page 2 of 2

**Comment Form**

Park: Delaware Water Gap National Recreation Area and Middle Delaware National Scenic River

Project: Susquehanna to Roseland 500kV Electric Transmission Line (ID: 25147)

Document: Susquehanna to Roseland 500-kV Transmission Line Right-of-Way and Special Use Permit Draft Environmental Impact Statement - DEIS December 2012 (ID: 44314)

\* indicates required fields

City:\* Clarks Summit State/Province:\* PA

Postal Code:\* 18411-7816

First Name: Doug Middle Initial: \_\_\_\_\_

Last Name: Heller

Organization: Sierra Club, Northeastern Group, Pennsylvania Chapter  
 Member  Official Representative

Address 1: 125 N Gravel Pond Road

Address 2: Clarks Summit PA 18411-7816

Country: USA

E-mail: bzz.harper@epix.net

 Keep my contact information privateComments or Requests: See attached seven page comment letter.<http://parkplanning.nps.gov/commentForm.cfm?parkID=220&projectID=25147&documen...> 1/30/2012



*Sierra Club, Northeastern Group of the Pennsylvania Chapter*

Submitted by:

Doug Heller, Chair  
and Ben Harper  
Sierra Club, Northeastern Group  
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125 N Gravel Pond Road  
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January 30, 2012

National Park Service  
Denver Service Center – Planning Team  
ATTN: Morgan Elmer  
12795 W. Alameda Parkway  
PO Box 25287  
Denver, CO 80225-0287

RE: Comments on the Draft Environmental Impact Statement / Susquehanna – Roseland Line

Dear Superintendents Donahue and Underhill and NPS Staff:

The Northeastern Group of the Pennsylvania Chapter of the Sierra Club (NE Sierra Club) respectfully requests that the National Park Service (NPS) (a) select the No Action Alternative as the Preferred Alternative, or if NPS is not so inclined, (b) prepare a Supplemental Draft Environmental Impact Statement (SDEIS) to evaluate the effects of the proposed Susquehanna-Roseland Line (Project) in Lackawanna County, Pennsylvania where under the National Environmental Policy Act (NEPA) NPS is required to focus on the following three affected physical areas and/or their surroundings: The Steamtown National Historic Site (Steamtown); the Lackawanna Heritage Valley Authority (LHVA) Region; and, the Moosic Mountain Barrens (Barrens).

The adverse effects of the Project on the Steamtown viewshed, the LHVA region and the Barrens, as well as procedural requirements under NEPA for evaluating these effects, have been brought to the attention of NPS by many and described in several previously submitted comment letters related to documents NPS has offered for public review and comment, as well as in separate correspondence between NPS and others.

NE Sierra Club incorporates by reference each of these comment letters and other correspondence identified in the list of seven letters below:

March 12, 2010 - Doug Heller, Chair, Northeastern Group, Pennsylvania Chapter, Sierra Club, 534 Wheeler Avenue, Scranton, PA 18510 to NPS;

September 14, 2010 - Doug Heller, Chair, Northeastern Group, Pennsylvania Chapter, Sierra Club, 534 Wheeler Avenue, Scranton, PA 18510 to NPS;

March 12, 2010 – Natalie Gelb Solfanelli, Executive Director, Lackawanna Heritage Valley Authority, 538 Spruce Street, Suite 516, Scranton, PA 18503 to NPS;

September 14, 2010 – Natalie Gelb Solfanelli, Executive Director, Lackawanna Heritage Valley Authority, 538 Spruce Street, Suite 516, Scranton, PA 18503 to NPS;

October 14, 2010 – NPS Reply to September 14, 2010 comment letter from Natalie Gelb Solfanelli, Executive Director, Lackawanna Heritage Valley Authority from NPS Superintendents Donahue and Underhill;

November 10, 2010 – Elena Saxonhouse, Staff Attorney, Sierra Club Environmental Law Program, 85 Second Street, Second Floor, San Francisco, CA 94105-3459 to NPS;

December 2, 2010 – NPS Reply to November 10, 2010 letter from Elena Saxonhouse from NPS Superintendents Donahue and Underhill.

1) The Steamtown viewshed includes both mountain areas in clear view of the national park and mountain and valley areas in clear view of the railroad lines used by the Steamtown excursion trains, and all of these scenic areas would be adversely impacted by the proposed Project.

As you know, Steamtown is a bona fide national park. Steamtown and the Delaware Water Gap National Recreational Area (DWGNRA) have equal status within the national park system. The selection of Alternatives 2 or 2b, and possibly other alternatives, would result in adverse effects to the Viewsheds of both the Steamtown and the DWGNRA national parks and have significant negative effects on visitor and resident experience. An evaluation of these adverse effects, whether direct, indirect or cumulative effects, is necessary to satisfy requirements under NEPA. Under the Alternative 2 and 2b schemes, and possibly other alternatives, in this area and in

other areas, the Project is a connected action, an action that would literally be connected by actual, physical lines. NEPA does not support the notion that NPS needs to evaluate effects only in what otherwise is its own area of specific responsibility or only in areas where NPS permits are required. In this instance and in other instances, NPS has a responsibility to evaluate effects and to compare them with and choose from among other alternatives.

2) The LHVA region includes the Viewshed and the Natural and Recreational Resource Areas within its region where areas bounded by the Lackawanna Valley Ridgetops in Lackawanna County would be adversely impacted by the proposed Project.

LHVA is one of approximately forty-nine U.S. National Heritage Areas (NHA). It is the only NHA that is organized as a municipal authority, funded almost entirely by NPS, and that includes mandated conservation responsibilities for the Secretary of the Interior. LHVA was authorized as a NHA by the United States Congress on October 6, 2000, under Public Law 106-278. Prior to legislative enactment, the Secretary of the Interior approved the LHVA Management Action Plan (MAP) and Environmental Impact Statement.

The Secretary of the Interior has defined responsibilities under the Lackawanna Valley National Heritage Area Act of 2000 (Act) as partly expressed in the following provisions:

Section 102 (a) (5) (A) "the Secretary of the Interior is responsible for protecting the historical and cultural resources of the United States;"

Section 102 (a) (6) "the Lackawanna Heritage Valley Authority would be an appropriate management entity for a Heritage Area established in the region;"

Section 102 (b) (1) "The purposes of the Lackawanna Valley National Heritage Area are--to conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the 4-county region described in subsection (a)(1);" and

Section 107 (a) (2) "In assisting the management entity, the Secretary shall give priority to actions that assist in-

(A) Conserving the significant historical, cultural, and natural resources that support the purpose of the Heritage Area;"

(NE Sierra Club incorporates by reference the text of the Act enabling legislation and LHVA MAP located at [www.lhva.org](http://www.lhva.org).)

The Project would create a skyline of 200 foot high towers that would extend approximately fifteen miles across the Valley Ridgetops in the Lackawanna Greenway. The Valley Ridgetops have been identified as specific natural resource areas of concern within the LHVA MAP. Under

NEPA, NPS cannot credibly dispute that the Project is a connected action vis-à-vis Alternatives 2 and 2b, and possibly other alternatives, neither can it credibly dispute that Steamtown and LHVA share significant and vast areas in the larger viewshed within Lackawanna County. In fact, the October 14, 2010 – NPS Reply to the September 14, 2010 comment letter from Natalie Gelb Solfanelli, Executive Director, Lackawanna Heritage Valley Authority from NPS Superintendents Donahue and Underhill clearly indicates NPS understanding that indeed the LHVA region appears to be within the Scope of the Project, and it is evident given the workload NPS assigned to LHVA, see quote below:

“In order to evaluate your request to include the Lackawanna Valley National Heritage Area as a part of this environmental review we require additional information. Can you please provide a map or Geographic Information System (GIS) shapefile that delineates the Lackawanna Valley National Heritage Area in relation to the applicants’ proposed route, Alternative 2? You expressed concerns regarding potential impairment to the viewshed of the Lackawanna Greenway and negative impacts to the rare Moosic Mountain Barrens ecosystem. Can you please provide specific locations along the greenway or within the National Heritage Area where scenic vistas are potentially impacted by applicants’ proposed route? Can you also provide more detailed information where the applicants’ proposed route crosses the Moosic Mountain Barrens ecosystem? Any maps and shapefiles that you can provide identifying the key scenic viewpoint and rare plant communities along Alternative 2 would be extremely useful in the determining next steps.”

A few things are worthy of mention regarding the letter quoted above. LHVA does not have the responsibility for doing research for NPS, research such as was requested in its letter, or for doing the work NPS must do to prepare an EIS evaluation. LHVA is not in a position to be reimbursed for time and expenses from the applicant for the Project. The LHVA comment letter is sufficient in itself for NPS to act and to begin the research itself. For instance, it is not LHVA’s responsibility to contact the applicants for the Project to obtain shapefiles of possible routings for the line for the proposed Alternative 2. Clearly, that is NPS’ responsibility. A simple visit to the LHVA website would provide NPS with a map of the LHVA region and enough to work with when initially contacting the applicant. If the applicant is unwilling to outline the necessary information for NPS to begin its research, then clearly NPS is within its rights to place the Project in a state of hiatus, at least until necessary information is forthcoming.

It appears from the correspondence, that NPS placed LHVA in the untenable position of not being able to meet the NPS request, and NPS should have known this to be the case. Busy as it is, LHVA apparently delayed responding to the overload of work NPS placed in its lap and became further discouraged when only a short time later it learned independently of NPS that, without notice to LHVA or the benefit of the results of the research and all of the work it had requested from LHVA, NPS arbitrarily eliminated the LHVA area from further review by

explaining that the area would not be the subject of a detailed evaluation. See December 2, 2010 – NPS Reply to the November 10, 2010 letter from Elena Saxonhouse, Staff Attorney, Sierra Club Environmental Program from NPS Superintendents Donahue and Underhill wherein NPS arbitrarily eliminates the LHVA region from a detailed evaluation, in part by stating,

“... the Federal action under consideration for the Environmental Impact Statement (EIS) is whether to grant the permits the applicants have requested in their proposal.”

Further and near the closing:

“We [NPS] only have jurisdiction over the segments of the line crossing the park units and have no way to determine where the line might be placed beyond a certain point outside these respective boundaries”.

In contrast however, as explained above, although the Federal action in this instance may be dependent on permits in certain park units, it is yet a connected action under NEPA, and NPS is required to study the LHVA area, much as it began to do when it wrote its October 14, 2010 letter to LHVA requesting detailed information.

In the same December 2, 2010 NPS Reply letter to Elena Saxonhouse, NPS characterizes LHVA as a municipal authority without explanation, seeming to suggest this was part of the reason for eliminating a detailed evaluation the LHVA region. Under NEPA, federal, non-federal government and private entities are subject to NEPA review when connected actions impact their areas. In this instance, LHVA is neither an applicant for the Project, nor as a municipal authority is it subject to the Clean Water Act which devolves NEPA obligations to the States as in the case of municipal authorities such as local wastewater treatment plants. Rather, the LHVA region contains natural and recreational resource areas wherein the Secretary of the Interior has specific responsibilities for giving priority to actions that conserve the historical and natural resource values of its region. By including the LHVA region as part of the NPS EIS detailed evaluation of the Project the Secretary would qualify as meeting his obligation to give priority to actions that would to the extent available under NEPA conserve the natural resource values of the LHVA region.

3) The Moosic Mountain Barrens (Barrens). The LHVH MAP was based in part on the Lackawanna and Luzerne Counties Open Space, Greenways & Outdoor Recreation Master Plan (Open Space Plan). NE Sierra Club incorporates by reference the Open Space Plan, available at [www.lackawannacounty.org](http://www.lackawannacounty.org), and the LHVA MAP available at [www.lhva.org](http://www.lhva.org).

The Bi-County Open Space Plan identified the Moosic Mountain Barrens as:

“a top priority NAI [Natural Areas Inventory] area representing one of the most unique areas in the state...with protection efforts underway.”

The Moosic Mountain Barrens and the surrounding Moosic Mountain Highlands are listed as “short term priorities” with “Preferred Management Entities” including:

“Public/Private Partnership; NPS; USF&W; U.S. Dept of the Interior; PA Game Commission; DCNR; PennDot; LHVA; and the County of Lackawanna.”

Based on strong community interest and support, and including \$500,000 of funding from the U.S. Department of Transportation, the Nature Conservancy purchased 2,250 acres in the Moosic Mountain Barrens as part of plan that already includes over 5,000 acres of protected land. The Nature Conservancy has plans to expand its holdings. Moreover, the Moosic Mountain Barrens is home to three rare plant communities and a Heath Barrens plant community that is described as the largest in North America and the only one in Pennsylvania. It is home to over twelve animal species categorized by the state as S1 or S2, categorized as most rare. Primarily, these include Lepidoptera species (moths and butterflies). The ecosystem also includes many other special flora and fauna.

Recent estimates place the Barrens as greater than 10,000 acres in size and naturally arranged as a complex, unified ecosystem. Fragmentation is the greatest threat to the Barrens. It is estimated that as many as five acres may be lost for each acre that is developed due to invasive species and other factors. Estimates based on mapping and language from the Project plan on the PP&L website indicate this is the only PP&L quadrant where it would need to buy significant new right of way. Several miles of Barrens property would be needed in the lower reaches of Moosic Mountain where as many as fifty acres of Barrens may be directly impacted and as many as 250 acres impacted adversely due to fragmentation. That would be in addition to the widening of the Project along the existing power line pathway as it crosses a central area of the Barrens where a widened pathway would further weaken one of the most fragile places in the Barrens that has been weakened by previous fragmentation. It is believed by most familiar and knowledgeable with Barrens ecology that the Project would effectively divide the currently unified Barrens into two separate ecosystems.

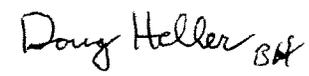
The previous comment letters from NE Sierra Club, LHVA, and Attorney Elena Saxonhouse of the Sierra Club Environmental Law Program incorporated by reference above include comments and attachments exemplifying the previous commitment of the Department of the Interior to evaluating the significance and varied aspects of the Moosic Mountain Barrens over the course of years 1993 to 2002 when it involved itself with all levels of government and the private sector in evaluations there via the several EIS's prepared and affecting the area. It would be unconscionable and it would contravene the spirit of NEPA if the Department of the Interior and its agency, NPS, were to step away from this history now based on a misguided belief that some overwrought technical interpretation of NEPA might allow it to escape from continuing its good work.

On the separate issue of applicant corporations funding so-called mitigation with \$30 million worth of ratepayer funds, NE Sierra Club does not support this type of mitigation and views it as a giant step toward setting the NEPA process up for sale.

In summary, NE Sierra Club requests NPS to select the No Action Alternative as the Preferred Alternative in order to render moot the requirement under NEPA that NPS include Steamtown, the LHVA region and the Barrens for detailed evaluation in a SDEIS.

Thank you for your consideration.

Sincerely,

  
Doug Heller, Chair

  
Ben Harper

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of the Pennsylvania Chapter  
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## New Jersey Conservation

F O U N D A T I O N

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**To** National Park Service  
Denver Service Center – Planning Division  
Attn: Morgan Elmer  
12795 W. Alameda Parkway  
P.O. Box 25287  
Denver, CO 80225-0287

**Date:** January 31, 2012

**Comments re:**

**Park:** Delaware Water Gap National Recreation Area and Middle Delaware National Scenic and Recreational River and Appalachian National Scenic Trail  
**Project:** Susquehanna to Roseland 500kV Electric Transmission Line  
**Document:** Susquehanna to Roseland 500kV Transmission Line Right-of-Way and Special Use Permit Draft Environmental Impact Statement – DEIS December 2011

**From:** Wilma E. Frey, Senior Policy Manager  
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U.S.A.  
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New Jersey Conservation Foundation (NJCF) is a private, non-profit organization whose mission is to preserve land and natural resources throughout New Jersey for the benefit of all. We protect strategic lands through acquisition and stewardship, promote strong land use policies, and forge partnerships to achieve conservation goals. Since 1960, we have worked to protect the state's farmland, forests, parks, wetlands, water resources and special places.

## **General Comments**

New Jersey Conservation Foundation strongly supports the National Park Service selection of Alternative 1, the No-Action Alternative as the least environmentally harmful. We urge the NPS to select Alternative 1 as its preferred alternative in the Final EIS. We urge the National Park Service to deny the applicant's proposal and not to issue the requested construction and ROW permits.

NJCF is especially concerned about the protection of land resources held in the public trust. National Parks are the quintessential example of lands held in the public trust. The Organic Act specifically states that national parks are to be held "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same *in such manner and by such means as will leave them unimpaired* for the enjoyment of future generations."

The Middle Delaware National Scenic and Recreational River was designated in 1978 under the provisions of the Wild and Scenic Rivers Act, which stipulates that the river "shall be administered in such manner as to protect and enhance the values which caused it to be included in the system ...primary emphasis shall be given to protect [the area's] esthetic, scenic, historic, archeological, and scientific features."

This Draft EIS also reviews impacts on historic resources under the authority of the national Historic Preservation Act of 1966, which requires federal agencies take actions to minimize harm to historic properties.

It is clear that all of the park crossings by the proposed transmission line will have major adverse impacts on the park and its resources in one respect or another. However, the Applicant's preferred route, Alternative 2-2b, is by far the most damaging to significant park resources. Therefore, given the National Park Service mission, Alternative 1, the No-Action Alternative, is the logical and rational choice, and it is the only way to protect the parks. Approval of any of the Action alternatives would violate the Organic Act, the Wild and Scenic Rivers Act, and the National Historic Preservation Act.

## **Comments on Landscape Connectivity, Wildlife Habitat and Wildlife**

The Draft EIS discusses the "Objectives in Taking Action," developing and refining goals and objectives for topics that include Natural Resources. Objectives include

\* "Protect threatened and endangered species by avoiding impacts.. ...coordinate with state agencies regarding state-listed species." DEIS 14.

\* "Avoid or minimize adverse effects on migratory birds in accordance with Migratory Bird Treaty Act and the 2010 *Memorandum of Understanding Between the U.S. Department of the Interior National Park Service and the U.S. Fish and Wildlife Service to Promote the Conservation of Migratory Birds.*" DEIS 15.

\* "Mitigate impacts on landscape connectivity." DEIS 15.

The 2010 Memorandum of Understanding between USDOJ-NPS and USFWS (**2010 MOU**) states that "meeting management and legal responsibilities requires that the NPS develop the capability

to identify, plan for, and mitigate actions adversely affecting migratory birds within park boundaries...” MOU 1. The MOU further notes that the the D.C. circuit has ruled that “Federal agencies are subject to the MBTA prohibition of take of migratory birds,” MOU 3 and that “reducing unintentional take of migratory birds is one of the primary purposes of Executive Order 13186...” MOU 4. The MOU notes that “Migratory bird conservation also meets the growing public demand for education and outdoor recreation. Migratory birds are also important economically, and recreational activities associated with migratory birds contribute to the support of many communities.” MOU 5.

Section F. of the MOU states that “The National Park Service will:

2. With regard to unintentional take of migratory birds, the superintendent of the NPS unit...will, prior to starting any activity that is likely to result in the unintentional take:

“a. Determine if any species of concern are likely to occur in the area of the proposed action.

c. Evaluate and document, as part of compliance with NEPA, the effects of the proposed action on migratory birds, focusing first on species of concern along with their priority habitats and key risk factors. Utilize the best available demographic, population, or habitat association data to assess impacts to species of concern. Also, identify where unintentional take that could reasonably be attributed to the action may have measurable negative effects on migratory bird populations.” MOU 15.

“4. Identify and protect natural habitats of migratory bird species within park boundaries...” MOU 16.

“8. Prevent or abate, to the extent possible, the pollution or detrimental alternation of migratory bird habitats in NPS units or affecting NPS units.” MOU 17.

NPS Actions, re “Communication towers, utilities, energy development, and transmission corridors... To assess impacts, pre-construction and post-construction monitoring should be established collaboratively with partners. Existing structures that may result in unintentional take will be monitored and considered for modification, replacement, or removal, if necessary.” MOU 23.

### **The Draft EIS fails to comply with the requirements of the 2010 Memorandum of Understanding.**

*The Draft EIS fails to determine if any species of concern are likely entirely to occur in the area of the proposed actions. It fails to identify the Rare species of migratory birds, including Special Concern, Threatened and Endangered species, that migrate along the Kittatinny Ridge through the DEWA at night. These are the specific species that would be most endangered by the significantly increased height of the transmission towers and the increased number of wires strung between them.* These species have been identified by New Jersey Conservation Foundation Ecologist Dr. Emile DeVito, a member of the New Jersey Department of Environmental Protection’s Endangered and Nongame Species Advisory Committee.

The State of New Jersey has designated Endangered, Threatened and Species of Special Concern, of which 33 are rare night migrant birds. Of the 33 rare night migrant species, about 24 breed in the DEWA. The species include:

- \* American Bittern
- \* Barn Owl
- \* Blackburnian Warbler
- \* Black-throated Blue Warbler
- \* Black-throated Green Warbler
- \* Blue-headed Vireo
- \* Bobolink
- \* Brown Thrasher
- \* Canada Warbler
- \* Cerulean Warbler
- \* Common Moorhen
- \* Common Nighthawk
- \* Eastern Meadowlark
- \* Golden-winged Warbler
- \* Grasshopper Sparrow
- \* Gray-cheeked Thrush
- \* Hooded Warbler
- \* Horned Lark
- \* King Rail
- \* Least Bittern
- \* Least Flycatcher
- \* Nashville Warbler
- \* Northern Parula
- \* Pied-billed Grebe
- \* Sora
- \* Spotted Sandpiper
- \* Veery
- \* Virginia Rail
- \* Whip-poor-will
- \* Winter Wren
- \* Wood Thrush
- \* Worm-eating Warbler
- \* Yellow-breasted Chat

(Source: NJ Endangered and Nongame Species Program: Special Concern – Species Listing (Oct. 2008))

Only five of these species are identified in the Draft EIS in *Table 14: Special-status Wildlife Species Identified through Agency Consultation*: the Virginia rail, Veery, Golden-winged Warbler, Black-throated green Warbler and Cerulean warbler. Draft EIS 176. The title of the Table is misleading, suggesting that these species are the only special status species that would be impacted by the transmission line upgrade. **However, the Special Status species identified consist solely of “special status species known to be present or having the potential to be found along the proposed ROWs.”** Draft EIS 172. At least a dozen additional species (see list above of NJ Special Concern Species) also breed in the same habitat as the Black-throated Green and Cerulean Warbler. The much larger number of special-status species that migrate along the Kittatinny Ridge, are likely present throughout the length of the DEWA and would be impacted by

the increased height of the transmission towers and increased number of wires, are simply not identified in the DEIS.

A second table, Table 11: Birds of Conservation Concern for USFWS Region 5 and Bird Conservation Region 28, includes many shorebirds that are irrelevant to the DEWA area, and is simply a generalized list created for a much larger region. Only 9 of the 33 New Jersey Species of Special concern are included on this list: Pied-billed Grebe, American bittern, Least bittern, Whip-poor-will, Wood thrush, Golden-winged warbler, Cerulean warbler, Worm-eating warbler and Canada warbler. Draft EIS 162-63.

However, neither of these Tables specifically identifies the migratory birds that traverse along the Kittatinny Ridge, requiring crossing the power line corridors, nor does the Draft EIS evaluate and document the effects of the proposed action on migratory birds. The Draft EIS does not evaluate in any way the potential impacts of the transmission lines on birds that migrate at night.

While the Draft EIS describes the importance of the Kittatinny Ridge for migratory birds, stating that it “provide[s] an ideal corridor for the seasonal migration of birds” and “is recognized worldwide for its importance to migrating birds,” (Draft EIS 160) the document does not identify ***the specific migratory species that rely on the Ridge, that migrate at night, and thus would be most impacted by the increased height of transmission towers and multiple power lines.*** Because these values are not noted or analyzed, they are not considered in the assessment of the impacts of the proposed transmission line. The initial description in Chapter 3 of the Affected Environment downplays the values, in this case, the values of the migratory birds and their relationship to the Kittatinny Ridge that actually exist in the DEWA and fails to address avian wildlife values that will be severely impacted by the transmission line.

***Because the specific conditions and the impacts on specific bird species is neither identified, documented, nor quantified, the Draft EIS does not comply with the directives in the 2010 Memorandum of Understanding.***

#### **Comments re Appendix F-2: Avian Protection Plan**

The Draft EIS states that “as part of mitigation for the proposed plan, an Avian Protection Plan (APP) will be developed and would be a condition of the applicant’s permit. This example of an APP is a plan developed by PSE&G for the New Jersey Highlands Council. While this APP provides an example of what an APP might be similar to for the proposed S-R line, the below plan has not been reviewed by NPS...” DEIS F-24.

The example provides an unacceptable model for a NPS mitigation plan. It is a vague statement of issues, lacks any detail whatsoever, contains no commitment to obtain baseline data on migration or migratory species, primarily mentions large raptors where electrocution is the major issue, lacks a dependable implementation mechanism and is therefore impossible to implement. It fails to address the significant avian issues associated with small rare nocturnal migrant birds. Avian electrocution is not the issue with small birds.

The DEIS, Appendix F F-9 states that “The following design components will be employed to minimize bird collisions with the lines (PSE&G 2010, 23): Flight diverters or transmission line markers, thicker wires, and bundled conductors “to make the transmission lines more visible to birds.” These proposals fail to recognize that the majority of passerine migration occurs **at night**,

when the birds will not see these devices. The situation becomes even worse when the birds are migrating in foggy and low visibility conditions.

The U.S. Fish and Wildlife Service commented in a letter to the Wisconsin Public Service commission regarding a 345kV Transmission Project Draft EIS with a quote from A.R Jenkins, et. al. (2010) that the “the surest ways to prevent birds from colliding with a proposed power line are either not build it, to bury it underground, or to route it well away from areas known or considered likely to support collision-prone species.” Tony Sullins, Field Office Supervisor, Dec. 22, 2011 letter to William Fannucchi, Public Service Commission, Madison WI. Quoting Jenkins, A.R., J.J. Smallie, and M. Diamond, 2010. “Avian collisions with power lines: a global review of causes and mitigation with a South African perspective.” *Bird Conservation International* 20:263-278.

Appendix G-6, contains a chart “Species documented in DEWA,” listing birds that were observed during field surveys. Although it indicates with an asterisk the migratory species (G-18 to GT-30), it does not indicate which species are rare, threatened or endangered. Thus, nowhere in the DEIS is information provided about which migratory species found in DEWA, and likely to fly along the Kittatinny Ridge, are of special concern.

#### **Comments on Impacts outside the Study Area.**

We are concerned that the DEIS does not recognize the New Jersey Highlands Region, a special place that the S-R transmission line upgrade will degrade. The Draft EIS fails to identify and recognize the outstanding natural and cultural resources of the New Jersey Highlands Region, on which the transmission line will have serious impacts. Figure 53, a map entitled “Protected and Recreation Areas Outside of the Study Area,” is indicative. While the map shows broad areas of Pennsylvania included in the “Lackawanna Valley State Heritage Region and the Delaware and Lehigh National Heritage Corridor, the New Jersey Highlands, a comparable region with comparable protections, is not depicted. The Highlands’ outstanding natural, historic, scenic and recreational resources were recognized in 2004 in both the federal and state legislation – the federal Highlands Conservation Act and New Jersey’s Highlands Water Protection and Planning Act. Both of these laws recognize and provide means to protect the Region’s significant forest, water, wildlife, historic, scenic and recreational resources. The federal act authorizes up to \$100 million for land preservation. The state law promulgated strict environmental protection regulations for the “Preservation Area,” more than 400,000 acres that comprise half the region, and regional planning for the entire 880,000 acre area, with local conformance mandatory in the Preservation Area.

A statement on page 253 requires revision: “Spanning the border of New Jersey and Pennsylvania, the majority of the [DEWA] watershed falls within the Delaware River watershed... To the north, the geologic features of the Pocono glaciated plateau gives way to ridge and valley formations of the northern Allegheny Mountains. To the south and east, the Great Appalachian Valley gives way to the megalopolis of eastern New Jersey and New York City.” Please note that the Great Appalachian Valley extends eastward to the foot of the steep forested ridges of the Highlands, dotted with over 400 lakes, ponds and reservoirs, cut by rocky gorges and wild trout streams, inhabited by black bear, bobcat and nearly 30 threatened and endangered species of animals, and crossed by both the Appalachian Trail and the long-distance Highlands

Millennium Trail. Granted, there has been development pressure on the Highlands region, but the edge of Megalopolis lies some thirty miles further east.

The document fails to note that the existing Susquehanna-Roseland transmission line actually crosses a number of protected lands, including Kittatinny State Park, Fanny State Park, Pyramid Mountain Natural Historic Area, four Natural Heritage Priority Sites, several large county parks in Morris County, and numerous municipal parklands. (Appendix G-5: Other public and conservation lands that could be crossed outside the study area, pages G-14-17)

Thank you for the opportunity to comment. We appreciate all the hard work that went into the preparation of the Draft EIS, as well as the work that goes into managing the Parks. If you have questions regarding these comments, please do not hesitate to contact me or Dr. Emile DeVito, NJCF Manager of Science and Stewardship at 908- 234-1225, [emile@njconservation.org](mailto:emile@njconservation.org).

Sincerely,

Wilma E. Frey  
Senior Policy Manager  
New Jersey Conservation Foundation  
[wilma@njconservation.org](mailto:wilma@njconservation.org)  
908-234-1225



*Defending the Planet One Beat at a Time*

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**FAX TRANSMITTAL SHEET**

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**TO:** Superintendent John Donahue  
Delaware Water Gap National Recreation Area, HQ

**FAX NO.:** (570) 426-2402

**PHONE NO.:**

**FROM:** Marc Ross, Executive Director

**DATE:** January 31, 2012

**TOTAL NO. OF PAGES:** 11, INCLUDING COVER SHEET

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**COMMENTS:**

Dear Mr. Donahue,  
Enclosed please find our comments to the Draft Environmental Impact Statement for the Susquehanna to Roseland 500-kilovolt Transmission Line. Please let me know if you have any questions or if the complete, 10-page letter is not received on your end. Thank you!

**ORIGINAL TO FOLLOW BY MAIL:** YES  NO

**IF THERE IS ANY PROBLEM WITH THIS TRANSMISSION,  
PLEASE CALL 303-454-3304.**

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*Defending the Planet One Beat at a Time*

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SUBMITTED ELECTRONICALLY &  
VIA FACSIMILE

January 31, 2012

National Park Service  
Denver Service Center - Planning Division  
Attn: Morgan Elmer  
12795 W. Alameda Parkway  
P.O. Box 25287  
Denver, CO 80225-0287

**Re: Comments to Draft Environmental Impact Statement for the  
Susquehanna to Roseland 500- kilovolt Transmission Line, 76  
FR 72001 (November 21, 2011).**

Dear Ms. Elmer:

The members of Rock the Earth, a national nonprofit corporation, hereby submit comments in response to the November 21, 2010 Federal Register Notice of the publication of the National Park Service's (NPS) Draft Environmental Impact Statement (DEIS) for a construction and right of way permit contemplated in the proposed plan from Pennsylvania Power and Light Electric Utilities (PPL) and Public Service Electric and Gas Company (PSE&G) (hereinafter, "the utilities") for a 500kV transmission line crossing the Delaware Water Gap National Recreation Area (DEWA), the Middle Delaware National Scenic and Recreational River (MDSR) and the Appalachian National Scenic Trail (AT or APPA) in Pennsylvania and New Jersey (jointly, "the Park Units").

**I. Rock the Earth**

Rock the Earth ("RtE") is a Pennsylvania nonprofit corporation with a national membership of concerned citizens who regularly utilize the national park system, year-round, for recreational activities. Our members regularly seek the peace, quiet and solitude of the National Park system for reflection, spiritual inspiration, and exercise, while engaging in recreational activities which include hiking, camping, photography, meditation, snow-shoeing, cross-country skiing and non-motorized water sports. RtE members will be directly affected by the proposed project for the construction of the power line through the Park Units in that such

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construction will destroy the natural beauty and character of the landscape of these remarkable and protect areas and, therefore, will diminish visitors'/members' ability to experience the Park Units in their natural state, thereby reducing visitor enjoyment. RtE members have several grounds for concern. These particular Park Units are prominent among the meager segment of areas in the Northeastern United States that remain for the activities we as individuals revere. It is our collective conclusion that as informed citizens, it is our responsibility to protect these treasured fragments of the Earth. Expanded use of these areas for activities not in harmony with both the current law as well as the legislative intent when these areas were set aside as Park Units and will devastate the naturally wild environment. Therefore, we find it not only our right, but also our responsibility to be concerned.

## **II. The Park Units Are Significant Resources that Require Protection**

As is recognized by the NPS, these particular Park Units are spectacular in their scenic, scientific and historic features. The DEWA is significant due to the exceptional quality of the Delaware River; it is the last free-flowing river on the eastern seaboard, and provides outstanding recreational and scenic opportunities. The quality and quantity of river water remains in good condition and provides a stable ecological environment. As one of the largest public open spaces remaining in the northeastern metropolitan corridor, the park provides a broad diversity of exceptional, unique, and close-to-home recreational opportunities for the more than 60 million people who live within a 6-hour drive of the park. In addition, the population of the region has boomed. There are not that many places remaining in this region to see wildlife and to experience the kind of tranquility one has in this river valley. Outstanding geologic and natural features form some of the best-known scenic landscapes in the northeastern United States (U.S.) and illustrate the characteristic landforms and biotic areas of the Appalachian Ridge and Valley Province and the Southern Appalachian Plateau Province, including the world famous Delaware Water Gap.

Meanwhile, the AT is similarly significant. The AT is a way, continuous from Maine to Georgia, for travel on foot through the wild, scenic, wooded, pastoral, and culturally significant lands of the Appalachian Mountains. It is a means of sojourning among these lands, such that visitors may experience them by their own unaided efforts. The body of the trail is provided by the lands it traverses, and its soul is in the living stewardship of the volunteers and partners of the Appalachian Trail Cooperative Management System (NPS 2005a).

## **III. The Proposed Plan from the Utilities is Contrary to NPS Mandates and Congressional Intent for the Park Units**

The NPS is guided by the United States Constitution, public laws, treaties, proclamations, Executive Orders, regulations, directives of the Secretary of the Interior and Assistant Secretary for Fish and Wildlife and Parks, as well as NPS guidance documents. The fundamental purpose of the National Park System as set forth in the Organic Act, 16 U.S.C. 1, 2-4, and reaffirmed by the General Authorities Act, 16 U.S.C. 1a-1 through 1a-8, as amended

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(“Organic Act”), mandates the conservation of park resources and values. The Organic Act of 1916, as amended, states in Section 1:

The Service thus established shall promote and regulate the use of the Federal areas known as the National Parks...by such means and measures as to conform to the fundamental purposes of the said Parks...which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations.

16 U.S.C. 1, 2-4. Likewise, the General Authorities Act, as amended by the Redwood Act (March 27, 1978, P.L. 95-250, 92 Stat. 163, 16 U.S.C. 1a-1) (“General Authorities Act”), affirms the basic tenets of the Organic Act and provides additional guidance on National Park System management:

The authorization of activities shall be construed, and the protection, management and administration of these areas shall be conducted in light of the high public value and integrity of the National Park system and shall not be exercised in derogation of the values and purposes for which these various areas have been established.

The restatement of these principles in the Redwood Act is intended to serve as the basis for any judicial resolution of competing private and public values. In the Redwood Act, Congress provided that when there is a conflict between conserving resources and values and providing for the enjoyment of them, conservation is to be the primary concern. 16 U.S.C. 1a-1.

National Park Service guidance documents and policy interpreting the laws, regulations and Executive Orders also support a rejection of the proposed plan. NPS Management Policy 1.4.3 contains an NPS obligation to “conserve and provide for enjoyment of park resources and values.” Contained within this management policy is the mandate that the NPS managers “must always seek ways to avoid, or to minimize to the greatest degree practicable, adverse impacts on park resources” and “when there is a conflict between conserving resources and providing for enjoyment of them, conservation is to be predominant.” See NPS Management Policy 1.4.3.

The NPS Management Policies also prohibit the impairment of park resources and values, thus ensuring that the parks will continue to exist in a condition that “will allow the American people to have present and future opportunities for enjoyment of them.” See NPS Management Policy 1.4.4 (The Prohibition on Impairment of Park Resources and Values); 2004 EA at 12 and NPS Management Policy 1.4.3 (NPS Obligation to Conserve and Provide for Enjoyment of Park Resources and Values).

Other substantive NPS Management Policies that support the basis for this comment letter can be found in NPS Management Policies 4.7.1 (Air Quality), 4.9 (Soundscape Management), and 8.2 (Visitor Use).

Further and specifically, the enabling legislation for the DEWA states as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to further the purposes of the joint resolution approved September 27, 1961 (re Delaware River Basin compact; 75 Stat. 688)... for public outdoor recreation use and enjoyment ...and for preservation of the scenic, scientific and historic features contributing to public enjoyment of such lands and waters, the Secretary of the Interior is authorized, as herein provided, to establish and administer the Delaware Water Gap National Recreation Area.

PL 89-158 (September 1, 1965); NPS Internal Scoping Meeting Report, Susquehanna to Roseland Transmission Line Proposal and Right-of-Way Request, Environmental Impact Statement (October 2009) (hereinafter, "2009 Internal Scoping Meeting Report"), at 9.

Similar protection was provided for by Congress in establishing the MDSR. In 1968, the Delaware River within DEWA was designated as a scenic and recreational river under the Wild and Scenic Rivers Act. The provisions of the act stipulate that as a scenic and recreational river the Middle Delaware:

[S]hall be administered in such manner as to protect and enhance the values which caused it to be included in [the wild and scenic rivers] system without...limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protect [the area's] esthetic, scenic, historic, archeological, and scientific features.

PL 90-542 (October 12, 1968); 2009 Internal Scoping Meeting Report, at 10.

Finally, clear intent to protect the AT was also evident in its enabling legislation. The National Trails System Act established the Appalachian National Scenic Trail and directed the Secretary of the Interior, in cooperation with the Secretary of Agriculture, state and local governments, and private citizens, to protect and administer the Trail. The Act provided the Secretaries of Interior and Agriculture with the authority to relocate the Trail; administer use of and access to the Trail; regulate incompatible uses, including motorized uses, bicycles, and horses; and enter into agreements with state agencies and non-government organizations to protect, manage, maintain, and develop the Trail. It also encouraged state agencies to pass similar legislation and take active steps to protect the Trail; and authorized federal land acquisition as necessary to establish a permanent route and protective corridor surrounding the footpath. 2009 Internal Scoping Meeting Report, at 10, referencing PL 90-543 (16 U.S.C. 1241, et seq.).

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Additional federal requirements can be found in several National Park Director's Orders, Federal and Pennsylvania and New Jersey State Laws: Director's Order 12: Conservation Planning, Environmental Impact Analysis, and Decision-making; Director's Order 28: Cultural Resource Management; Director's Order 53: Special Park Uses; Director's Order 77: Natural Resources Management Guideline (1991); Director's Order 87D: Non-Park Roads.

**A. The Proposed Plan by the Utilities is Inconsistent with Federal and State Mandates**

The Utilities propose a dramatic plan that will directly impact the Park Units. In their plan, an existing 230,000-volt (230-kV) power line with approximately 80-ft structures currently located on the current right-of-way would be replaced with new larger tower structures (up to 200 feet high) to co-locate both the existing 230 kV line and a new 500-kV line. This would necessitate widening the existing right-of-way, and in areas, would require granting additional legal rights beyond the Utilities' current rights. The Utilities' proposed action would also include the construction of new access roads and the rehabilitation and widening of existing roads for accessing the transmission line corridor.

These proposed expansions of both the right-of-way and attendant roads for the transmission line corridor will directly impact the Park Units and is directly inconsistent with Federal and State legal mandates. As recognized in the 2009 Internal Scoping Document, the project as proposed will directly impact or has the potential to impact the following:

- Geologic Resources
- Air Quality
- Viewsheds
- Soundscapes
- Greenhouse Gasses/Climate Change
- Water Quality
- Aquatic Systems
- Wetlands
- Floodplains
- Vegetation
- Landscape Connectivity
- Invasive Species
- Rare or Unusual Vegetation
- Unique Ecosystems and Rare Communities
- Unique or Important Wildlife and Wildlife Habitat, including Migratory Birds
- Unique or Important Fish and Fish Habitat
- Species of Federal and State Concern, including federally or state listed endangered or threatened species
- Archeological Resources
- Prehistoric or Historic Structures
- Cultural Landscapes
- Ethnographic Resources

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- Socio-economic

2009 Internal Scoping Meeting Report, at 29-33.

The construction of massive transmission infrastructure through the three parks presents a myriad of impacts on wildlife and certain impacts to the resources listed above. Even if minimized, it is clear that construction and maintenance will negatively impact wildlife communication, habitat utilization, and reproductive success. DEIS, Ch. 4, pp. 415-483. The proposal also threatens a rich historical landscape containing 70 significant sites that have been or are being entered on the National Register of Historic Places. These include archaeological sites, sites used for interpretative history and are a fundamental resource for visitors to not only learn about, but experience the past. Some of the most threatened historic locations include Van Campens Glen, the Appalachian National Scenic Trail, Old Mine Road Historic District, Watergate, Delaware View, and Community Drive. DEIS, Ch. 4, pp. 507-524.

These factors alone would violate both federal and state law mandates.

**B. Visitor Experience Will Be Directly Impacted by the Proposed Project**

We have reviewed the DEIS for the Susquehanna to Roseland 500kV Electric Transmission Line (the "Project"). As with many other members of the public, we continue to be concerned about the impacts that the Project will have, including as to natural and cultural resources such as geologic, floodplains, wetlands, vegetation, bird, aquatic and other wildlife. We also are particularly concerned as to the impacts on **Visitor Use and Experience**, and we respectfully provide our following comments in that regard.

As the DEIS makes clear, the Park Units are enjoyed by many members of the public for a variety of activities. A significant value in this regard concerns scenic viewing. "Visitors use a variety of park resources based on personal goals and interests, and the feeling they experience during their visit is the result of multiple actions and encounters.... Although several factors contribute to the quality of the experience, the proposed actions would affect visitor use and experience primarily through visual and noise disruptions.... Aesthetic value is an important consideration in the management of recreation settings, especially where most people expect a natural-appearing landscape with limited evidence of 'unnatural' disturbance of landscape features. Scenic qualities can affect park visitors, residents of the local area or nearby communities, and a broader constituency who may either occasionally visit the parks or simply have an interest in their scenic qualities." (DEIS, Ch. 4, p. 626).

Another important value for Visitor Use and Experience concerns soundscapes. "Inappropriate sound can also adversely affect park visitor experiences. Visitors usually have high expectations regarding a national park experience. The impacts of inappropriate sound on visitor experience are especially evident where visitor expectations include solitude, serenity, tranquility, contemplation (as in wilderness), or a completely natural or historic environment.... To the extent that noise might displace animals from viewing areas ... it could

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indirectly impact visitor experience by precluding visitors from enjoying the sights and sounds of wildlife.” (Id.).

The Utilities’ proposal to construct massive transmission towers nearly 200-foot-tall and having a 350-foot-wide right-of-way constitutes a serious degradation to the preservation of both natural and cultural resources. While the current 80-foot-tall transmission towers already rise above the tree canopy and degrade the viewshed and contribute to the fragmentation of the landscape, they are far less obtrusive than that contained within the proposal in question. An AT visitor experience may include 20 miles north and south of the Right-of-Way – this is what a thru-hiker may hike in a day. Construction activities such as tree clearing and blasting would be an impact to visitor experience. In addition, bringing in large construction equipment and the towers via park roads and public roads would affect the visitor experience. Long term impacts to visitor experience may also occur. The visibility of the new towers above the existing tree-line will have an effect on visitors in the long term. Qualities of the existing visitor experience, including key elements such as primitiveness and solitude will be impacted. Some hikers on the AT consider hiking the trail a lifetime experience. Protecting scenic resource values are specified in DEWAs enabling legislation and the APPA legislation provides for a primitive experience along the trail.

In addition to hikers on the AT, both the construction and long term effects of the project will impact ALL visitors to the Park Units – whether it be paddlers on the Delaware River itself, to others who visit the Park Units for solitude and the marked natural soundscapes and beauty – viewshed appreciation, recreational and aesthetic resources in the Park Units will all be impacted by the proposed project.

As set forth in the DEIS, the various Action Alternatives all result in significantly adverse impacts on Visitor Use and Experience, from a variety of sources, including removal of existing structures, and Project construction and components.

In general, as the DEIS demonstrates, the Project will impact significantly on hiking, camping, hunting, fishing, star-gazing, and other non-motorized, as well as aquatic, recreational activities on all of the federal, state and local lands in the project area. The presence of a transmission line and soaring 190’ towers will have a significant impact on the recreational experience of residents and visitors to the area. The Project will adversely affect game species and thereby diminish opportunities for hunting. Hikers and people enjoying the attractions and unspoiled vistas in the gorges, viewing areas, and scenic byways surrounding the area would be faced with visual and acoustic impacts from a large, industrial-scale transmission Project that is fundamentally at odds with non-motorized recreation and enjoyment of the solitude, darkness and relatively unbroken natural experience now available.

The transmission and generation components of the Project will also adversely impact on the visual and scenic resources, including the daytime viewsheds and the incomparable nighttime darkness currently available in the area. The flares from gas and coal plants, cooling towers from coal plants, and night-time beacons on tensioning towers would alter the current character of the lands where the transmission and generation infrastructure would be built. We have

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serious concerns that development of industrial-scale transmission lines in this area would not be compatible with respect to viewshed and scenic resources. The Appalachian Trail is one of the most important scenic locations in the United States presenting unique opportunities to millions of citizens and visitors. This “unique opportunity” will disappear when a large industrial development cuts across the Trail. We believe that it is not feasible to design and operate the proposed transmission and generation facilities to be compatible with the surrounding, unique, and unparalleled scenic characteristics of the Trail.

Silence and a sense of remoteness is another important aspect of scenic quality currently present on the Trail, and in the Water Gap, as well as other areas within the Highlands. Nighttime views of the transmission lines, which may bear several red strobe lights, flashing at frequencies of at least 20 times per minute, will severely impact on an otherwise dark landscape.

More specifically, the DEIS acknowledges the following significant impacts that all Action Alternatives of the Project will have on Visitor Use and Experience in several parts of the Park Units:

1. “During removal and disposal of existing structures, visitors would experience adverse noise and visual impacts from the creation of access roads, the transportation of construction equipment for and from the decommissioning sites, the removal of the crane pads and equipment at wire pulling locations, the removal and disassembly of lattice towers, and grading activities. Possible helicopter use would result in additional noise and visual impacts.” DEIS, Vol. 1, Ch. 4, p. 631.
2. “Adverse impacts would result from the construction of the new facilities, including grading activities to create level pads for tower sites, the construction of foundations, and the construction of steel towers, including wire installation. New pulling and splicing sites, as well as new construction staging locations, would further affect visitors due to noise and visual disruptions. Some existing roads, new access roads, and spur roads would require clearing and grading.... During construction, visitors may also experience temporary road closures or reroutes, which could cause delays or the inability to access and use preferred recreation sites.” Id. Even though some of these road closures and reroutes might be “temporary,” they could nevertheless inhibit visitors from returning at all.
3. While a “portion of the corridor along the ROW would be allowed to revegetate ...[s]uch revegetation would take many years....” Id.
4. “Under all action alternatives, devices placed on transmission line conductors (wires) to deter birds would increase the visibility of the lines by making the conductors more prominent. This could increase the level of adverse impacts where visitors would be visually exposed to these devices.... Visitors relaxing at an overlook along APPA would be more affected, increasing the overall level of impact.” Id.
5. “The addition or improvement of access roads and spur roads called for under all action alternatives could result in ORV and dirt bike use, which is illegal in the parks. Such use would

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result in increased noise, which would adversely affect visitor experience. This engine noise would be incompatible with the natural, park-like setting. In addition, visitors could see damage to vegetation and scars from these vehicles, and would potentially see the roads being used in this manner. The presence of these vehicles and their resulting damage would also decrease the possibility of wildlife sightings. These impacts would increase the level of impacts on visitor experience of the parks, and may influence visitors' use of the parks, because they may avoid such areas." Id. at 631-32. Although "an OHV/ATV deterrent plan would be developed," id. at 632, the ability to deter such unauthorized, indeed illegal use is highly suspect.

6. "[M]any river users would pass below the transmission line under all action alternatives.... The presence of the taller towers, thicker lines, and bird diverters ... would be seen not only as boaters pass below the wires, but during the approach from farther upstream.... For these reasons, changes proposed under the action alternatives would adversely affect the visitor experience of many boaters." Id. This is especially the case since, as the DEIS points out, 64% of DEWA visitors surveyed in 2010 acknowledged that "power line expansion through DEWA and MDSR would detract from their park experience." Id.

7. "[V]isitors hiking long sections of trails, including APPA from both inside and outside DEWA boundaries, would be exposed to intermittent views of the transmission line during their approach to it. The towers would be taller, the ROW wider (with the exception of alternative 2b), and, in the case of alternatives 3, 4, and 5, two sets of transmission lines would be seen. The transmission lines would be more noticeable than existing conditions, so they would be seen from greater distances during approach and would have a greater impact due to their larger presence." Id.

8. "[H]unting is allowed throughout DEWA and is not concentrated in any particular area in relation to the proposed alternatives. Because hunters enjoy the natural aesthetics of their surroundings, they would experience similar impacts to other visitors." Cleared canopy openings created by the transmission line "are generally not suitable for hunting deer.... [and] waterfowl hunters may not want to fire overhead toward the transmission lines and would therefore avoid these areas. As a result widening the ROW should decrease the area's suitability for hunting. The most extensive impacts would result from deconstruction and construction activities," because the noise would "frighten game from the area and degrade the naturalness of the hunting experience." And the DEIS recognizes that this may lead to "crowding" as hunters choose other parts of DEWA - a problem already identified by 43% of all hunters as "unsatisfactory." Id.

In addition to the above noted severe adverse impacts on Visitor Use and Experience that are common to all action alternatives, the DEIS also identifies several such impacts unique to the different action alternatives.

For example, for applicants' proposed route of Alternative 2, many visitors who use the Delaware River for canoeing, kayaking and tubing, as well as fishing, will be adversely affected in their experience as a result of "a substantial change to views for river users, resulting from higher structures and additional, thicker conductors. Boaters would pass below the transmissionline quickly, but the line would be seen in the distance for some time during the approach, detracting from the naturalness of the setting." Id. at 633. "Corona noise, which is not heard from the existing line, would be heard during bad weather days" and would

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adversely impact boaters, including motorboaters whose speeds are limited to 10 mph. “[O]verall visitor satisfaction would begin to decline, because visitors would be aware of the change and the duration of the impact would be prolonged.” Id.

Similarly, this alternative would entail increased congestion on River Road and visual impacts around the small town of Bushkill that provides access to DEWA. “[T]he sight of the large structures [towers of substantial height and three rows of conductors] may diminish visitors’ initial impressions of DEWA .... Many visitors would be affected by the visual change, which would be continuous and may change some critical characteristics of the desired visitor experience.” Id. The DEIS also notes the substantial visual changes on Old Mine Road, the McDade Trail, Community Drive, and the Watergate Recreation Site,, as well as the Upper Glen trail, where “[v]isual impacts would also be permanent for visitors ... [again] potentially changing some critical characteristics of the desired visitor experience. Visitors would be aware of the change, which may affect their decisions to recreate there.” Id.

#### IV. Conclusion

As stated in the DEIS, “[t]he NPS is mandated to preserve natural, historic, and scenic resources in perpetuity for the benefit and enjoyment of the public. Adverse impacts resulting from the action alternatives that would endure for the period of analysis would diminish the parks’ ability to meet this mandate. Under all action alternatives, adverse impacts on visitor experience may affect visitors to the extent that they do not return. This may be particularly true if access to a specific destination is closed during deconstruction/construction activities.” Id. at 632-33. The DEIS admits that it cannot even quantify the extent to which this will occur, making this a very serious concern.

Clearly, this Project will have major impacts on the visitor experience and essentially stop or at least significantly inhibit and adversely affect public outdoor recreation use and enjoyment in sections of the Park Units. The primary goal of the Park Units will be inhibited by granting the applicant permits and these impacts should be weighed heavily. Creation and expansion of access roads, increasing the height of the towers, and permanent and even temporary closures of sections of the Park Units will have significant long term impacts on public enjoyment of the Park Units.

In sum, the alternative that does not place the goals of the DEWA in jeopardy must be selected – specifically, the NO ACTION ALTERNATIVE.

Thank you for your consideration.

Gratefully yours,



Marc A. Ross  
Executive Director  
Rock the Earth

## Correspondence (1878)

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## Correspondence Text

This statement constitutes the Appalachian Trail Conservancy's (ATC) final submission regarding the Susquehanna-Roseland Draft Environmental Impact Statement (DEIS). Our earlier submissions and comments provide background information about the ATC and the Appalachian National Scenic Trail (ANST or A.T.). To reiterate: ATC's mission is to preserve and manage the Appalachian Trail, ensuring that its vast natural beauty and priceless cultural heritage can be shared and enjoyed today, tomorrow, and for centuries to come. Our 42,000 members, and our 31 A.T. maintaining clubs (including three directly affected by this project) support ATC's position, and share ATC's substantive concerns about the proposed action alternatives for the Susquehanna-Roseland Power Line.

As laid out in the National Trails System Act (P.L. 90-543, as amended through P.L. 111-11, March 30, 2009), national scenic trails such as the Appalachian Trail are "extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass." Congress emphasized "nationally significant" scenic and natural values to distinguish national scenic trails from the other types of trails created by the Trails Act, and placed clear obligations on the administering agency to protect those values. As with other units under National Park Service jurisdiction, the standards governing the management of the Appalachian Trail are set forth in the National Park Service Organic Act of 1916. Regarding a national scenic trail, the National Park Service certainly has obligations to protect scenic resources beyond park boundaries. ATC and our 6,000 dedicated working volunteers, along with agency partners, strive to maintain a viable trail corridor that continues to meet the intent of the Trails Act. We work to protect scenic viewsheds from Georgia to Maine for the millions of annual visitors to the trail. Given the close proximity to urban centers, the heaviest used sections of the A.T. are in the Mid-Atlantic states. It is also important and relevant to acknowledge and recognize that the state historic preservation offices of Pennsylvania and New Jersey have determined that the Appalachian National Scenic Trail is eligible for listing on the National Register

of Historic Places.

We have worked with the project proponents and the National Park Service (NPS) to highlight trail concerns. We have conducted field reviews and extensively reviewed the DEIS, and must recommend that the NPS select Alternative 1-the No Action Alternative. The ATC does not believe it is feasible for the applicants and the National Park Service to implement any of the location or action alternatives without permanent impairment to the values and resources of the Appalachian National Scenic Trail (ANST). There are too many remaining unknowns to conclude otherwise at this time. In short, the action alternatives fail to meet ATC's long-standing criterion that there be "no net loss of Trail values or quality of Trail experience" (see DEIS, "ATC Roads and Utilities Policy," Appendix B, pages B-13 and 14).

General Comments: It is difficult for ATC to adequately evaluate impacts of the proposed action alternatives for a number of reasons, particularly the lack of detailed information specific to the Appalachian National Scenic Trail on tower heights and locations, rights-of-way (ROW) widths, locations of access and spur roads and other construction operations, and routes of the various alternatives beyond park boundaries. While the Delaware Water Gap National Recreation Area was extensively analyzed, the ANST as a separate and unique unit of the National Park System, was not.

Sufficient details regarding tower heights and design (lattice versus monopole), new or upgraded access roads, spur roads, pulling and splicing sites, crane pad locations and route locations outside park boundaries are absent or suppositional. Although more specific detail is provided for the applicant's preferred alternative 2 and 2b, even there detailed information is often lacking. In many cases, the DEIS provides a range of design possibilities based on "Industry Standards" and "Best Management Practices." These are not acceptable substitutes for actual dimensions, square footages, acreages, and facility locations as they relate to the Trail.

Specific Comments-Visual Effects: With generally only two pictures at each "key observation point" or KOP (existing and proposed), the ATC is struck with the need to have more comprehensive analyses of visual impacts, mindful of our mission to thoroughly analyze potential visual and scenic impacts to protect these visually significant ANST lands in perpetuity. The visual simulations are limited in that they depict only one perspective at each individual KOP along each alternative, and, further, that those views are along the axis of the power line. Panoramic, 360-degree visual simulations are needed at each KOP to adequately assess impacts to hikers and other visitors.

Additionally, ATC is puzzled as to why the National Park Service and its contractors picked the Federal Highway Administration's (FHWA) "Visual Impact Assessment for Federal Highway Projects" (1988), over the much more robust, resource-sensitive and up-to-date Scenery Management System (formerly known as the Visual Management System), developed by the Forest Service, USDA. Comparing the brief, photocopied 1988 FHWA document to Landscape Aesthetics: A Handbook for Scenery Management (December 1995) will demonstrate our concerns with the presently limited visual analyses in the DEIS. The FHWA analyzes projects "from one's automobile," while the Forest Service's broader and more effective approach analyzes overall effects on individual viewers from settings where scenery is of high importance, such as the Appalachian National Scenic Trail (emphasis added).

In the 40-year history of the Appalachian National Scenic Trail, ATC and its federal agency partners, particularly on the southern national forests, have sought to protect the "Foreground" (out to one-half mile), and the "Middleground"(out to 4 miles)-from timber sales, new forest roads, and other major landscape-level visual (and aural) impacts such as mines, ski areas, wind farms, etc. In the Middleground, the U.S. Forest Service (the Trail's largest landowner) has now specified that the ANST will merit "Partial Retention" (of the pristine view). That zone is now applicable for almost 950 miles of the ANST across eight national forests. This direction has led, for example, to denial of a state permit in North Carolina to a mineral-extraction company for a new mine three miles from the A.T., as well as mitigation for a major wind-farm utility development in Maine, where the National Park Service and ATC used the Forest Service system to evaluate scenic effects on that section of the federal corridor. In one case, the Maine Land Use Regulation Commission (LURC) denied another wind-farm permit outright,

based on effects on scenic and wildlife three miles from the ANST. We urge the NPS to adopt the Scenery Management System for future analyses of projects of major scope such as this one.

The DEIS suggests that opening a wider ROW corridor may increase the "frame of the view" (page 595) and that negative impact would be "offset somewhat by the increased cleared ROW providing a wider view opportunity of the surrounding landscape which is scenic and memorable." It is our belief that the ANST affords visitors superb viewing opportunities along the existing natural rock outcrops, open areas, and leaf-off seasonal viewings that occur naturally along the Trail's entire length. The legislation enacting the ANST requires trail managers to protect and ensure scenic views that are not marred by 195-foot-tall utility poles and conductors.

Given the major, new, foreground visual effects of the new lines, for towers approaching 200 feet tall, this additional resource information must be coupled with refined viewshed analyses. Despite measurements from one or two "key observation points" or KOPs (all that is provided in Appendix K), there will be almost constant exposure to the offending view particularly in leaf-off seasons as park visitors approach the proposed crossing itself. NPS and its contractors have not yet achieved realistic evaluations of the full scope of visual effects impacting the parks and their visitors, hence our support for Alternative 1-the No Action Alternative.

Specific Comments-Natural Resource and Wildlife Effects: The Delaware Water Gap National Recreation Area in the vicinity of the proponents' preferred Alternatives 2 and 2b would be divided at its widest and wildest point, essentially dividing the national park in two, and would compromise the Middle Delaware National Scenic and Recreational River at one of its most scenic points. This area has the greatest concentrations of vital natural resources and therefore will be the most impacted if chosen by the agency. It includes Arnott Fen, a wetland fed by a limestone aquifer that makes this region a center of concentrated biodiversity, including rare bog turtle habitat and other species of concern. Therefore, Alternatives 2 and 2b represent the worst of all possible alternatives.

The DEIS appropriately recognizes the Kittatinny Ridge as an Audubon-designated, and internationally significant "Important Bird Area" (IBA). It notes the importance of the resource as a globally significant flyway for migrating birds, particularly raptors. ATC considers this flyway an important natural resource for the Appalachian Trail, as the Trail is coaligned with the ridge for about 200 miles as it passes through Pennsylvania, New Jersey, and New York. ATC has been actively working with the Audubon Society, Hawk Mountain Sanctuary, and other conservation partners to protect the Kittatinny Ridge from inappropriate development and other threats extending above the treeline, including telecommunication towers and power lines. As proposed, all of the action alternatives will pose unacceptable, permanent, adverse impacts to birds nesting and migrating along the flyway, additional reasons ATC supports Alternative 1-the No Action Alternative.

Additional impacts to natural resources include an increase in forest fragmentation, introduction of exotic invasive species, and increased access by destructive all-terrain vehicles (ATVs). Each of these impacts creates management and maintenance challenges for Appalachian Trail volunteers and agency partners.

Alternatives Analysis and Comparison: This section provides analysis from ATC's perspective of the suitability of the remaining routing alternatives.

Alternative 3: With the ROW expanding and tower heights increasing, ATC is concerned with expanded clearing, forest fragmentation, and exotic invasives as well as ATV trespass; however, we are stymied by not knowing the details of the expansion of the ROW beyond the 150- to 300-foot ROW description in the DEIS (as elaborated above).

Alternative 3 is the worst in terms of its effects on the ANST, with numerous, unacceptable, adverse impacts to vistas. It parallels the A.T. for 2.5 miles on a ridge only 400 feet high, so that hikers would be looking down on the proposed 150- to 200-foot towers less than a quarter mile to the southeast along an

open, rocky ridge with many open viewpoints, including New Jersey's Catfish Fire Tower. This is also the closest alternative to the Mohican Outdoor Center of the Appalachian Mountain Club (AMC), an Appalachian Trail gateway that is used by thousands of visitors annually. AMC is an A.T.-maintaining club working under ATC auspices in a number of states, including Pennsylvania and New Jersey.

ATC, AMC, and the NY-NJ Trail Conference each individually asked NPS to discard this alternative during scoping, but it is still in the DEIS (see our respective 2010 comments on the Preliminary Alternatives regarding the then-designated Alternative 2/Route B, now Alternative 3 in the DEIS).

In our view, this alternative should be discarded from additional consideration in the DEIS.

Comparison of Alternatives 2 and 2b with Alternative 4 and 5: The two companies' preferred Alternatives 2 and 2b are partly equivalent in their apparent effects solely on the ANST. Both pairs cross the A.T. at one location with tower heights that are roughly equivalent; however, it appears that the ROW widths of Alternatives 4 and 5 would be much wider, as they would contain both the double circuit 500 kV and the existing parallel distribution line and would merge with a third existing power line ROW immediately east of the proposed crossing (see red "Deciduous Forest" at A.T. crossing depicted in DEIS Figure 37). We contend that this "mega-cut" would have substantial adverse impacts on ANST resources at this location, further exacerbated by the 250-foot American Telecommunications Tower at Totts Gap.

Furthermore, Alternatives 4 and 5 would have unacceptable adverse impacts on the vista at Lunch Rocks due to the proposed taller towers and wider ROW clearing. These additional impacts would require mitigation (preferably at the site of impact) beyond the proposed abandonment and restoration of the existing B-K line.

Assuming the ROW and vista impacts could be fully mitigated and the B-K line would be abandoned and restored, it is possible that Alternatives 4 and 5 would cause the least harm to the A.T. However, as previously stated, in order to determine this, ATC would need additional visual analysis, precise details on proposed construction and infrastructure, and the routing location outside park boundaries, as well as understanding the gravity of wildlife effects on Alternatives 2 and 2b.

We therefore recommend Alternative #1, the No Action Alternative. If the NPS can prevail in its Record of Decision in the Final Environmental Impact Statement (FEIS) to secure an alternate location that truly reduces impacts (Alternative 4/5), the existing 230 kV line at Alternative 2/2b would be removed, which would be a major improvement for all three parks.

While ATC strongly urges the NPS to select the No Action Alternative, should the decision be made to build the line and Alternative 4 is selected, ATC requests assurance that the B-K line be removed and the ROW corridor restored and extinguished, with any retained ownership reverting to the Delaware Water Gap National Recreation Area.

Thank you for this opportunity to comment.

Laura Belleville  
ATC Director of Conservation

Karen Lutz  
ATC Mid-Atlantic Regional Director

Robert Proudman  
ATC Director of Conservation Operations

Michele Miller  
ATC Mid-Atlantic Resource Program Manager

The following organizations join with ATC in support of this position:

New York-New Jersey Trail Conference  
Mahwah, New Jersey

Appalachian Mountain Club-Delaware Valley Chapter  
Bethlehem, Pennsylvania

Wilmington Trail Club  
Wilmington, Delaware

## Correspondence (1578)

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## Correspondence Text

Dear Mr. Elmer,

The Appalachian Mountain Club (AMC) is a private, non-profit organization whose mission is to "promote the protection, enjoyment, and understanding of the mountains, forests, waters, and trails of the Appalachian region". We encourage public respect for the natural environment, provide leadership in its protection, and offer recreational and educational programs and facilities for the enjoyment and wise stewardship of the outdoors. Our over 100,000 members, supporters and advocates reside largely in the Northeast including in New York, New Jersey, Pennsylvania, and Delaware, for whom the protection of the Delaware River Basin is of great importance.

AMC has a long history of conservation interest and hands-on stewardship in the Delaware Water Gap.

In 1971 AMC opposed the construction of the Tocks Island Dam and supported the creation of the Delaware Water Gap National Recreation Area.

In 1975 AMC prepared a Delaware Water Gap National Recreation Area Recreation Management Plan for the National Park Service.

In 1992 AMC completed an inventory and recommendations for trail development and maintenance in the Delaware Water Gap. This same year, AMC volunteers began maintaining trails in the Delaware Water Gap in partnership with the National Park Service.

In 1993 AMC established Mohican Outdoors Center in the Delaware Water Gap National Recreation Area.

Through AMC's Mohican Outdoors Center, 10,000 – 11,000 thousand visitors every year experience the

Delaware Water Gap, including hundreds of children from cities like Patterson, Newark, and Philadelphia, taking part in outdoor education programs conducted by AMC staff and volunteers. Our all-volunteer trail crew maintains over 30 miles of trails in the Delaware Water Gap and puts in over 4,000 volunteer hours every year. We remain dedicated to preserving this unique wilderness and the recreational experiences it offers to the public.

AMC is deeply concerned about the Susquehanna to Roseland Transmission Line proposal and urges you to deny the right of way for the following reasons:

#### Recreation Resources and Economic Impacts on Human Environment

The NPS Draft Environmental Impact Statement states that, "the proposed project is likely to negatively affect park operations."

The project would likely affect law enforcement and resource management by creating additional tasks for monitoring construction-related activities, diverting time and resources from other park responsibilities.

Other impacts to recreational park users include temporary closures of access points, which would eliminate outdoor recreation opportunities for hikers and paddlers.

Construction of the new transmission line and towers would mean "potential safety hazards associated with construction, equipment related hazards, and transportation of materials," creating a dangerous environment for outdoor recreation.

#### Viewsheds

According to the National Park Service's draft Environmental Impact Statement, "The proposed line and associated access roads may alter some viewsheds, which could adversely affect the visitors' appreciation of the parks' viewsheds and scenic resources."

Specific impacts vary with each alternative route, but all would mar the iconic viewshed currently enjoyed by millions of park visitors. Potential routes would impact views from the Appalachian Trail, Old Mine Road, McDade Trail, Van Campens Glen, Mohican Outdoor Center, and the Delaware Water Gap National Recreation Area.

The current right-of-way is located about two and a half miles north of AMC's Mohican Outdoors Center. Visitors to Mohican would be able to see the new 200-foot-high towers from the well-known and popular look-out on Rattlesnake Ridge. As such the transmission lines will have a large potential impact on visitors to AMC's Mohican Outdoors Center.

Every potential route would cross the Delaware, and several routes would cross where it is federally-designated under the Wild and Scenic Rivers Act. The proposed project would disrupt the viewshed currently enjoyed by hikers, paddlers, and anglers.

#### Landscape Connectivity

According to the draft Environmental Impact Study, "the proposed transmission line expansion may contribute to habitat fragmentation by increasing the width of the [right of way], clearing heavily forested areas in the [right of way], and along proposed access roads, and reducing large, contiguous blocks of habitat."

As an organization concerned about the protection of the Appalachian region we are concerned not only about the impact the proposed power line project will have on the Delaware Water Gap, but also on other public and private forestlands and agricultural areas traversed by the power line in the region.

A particular area of concern is the impact of the transmission corridor on the New Jersey Highlands. The AMC has spent over a decade on conservation of the Mid-Atlantic Highlands region in Pennsylvania,

New Jersey, New York and Connecticut. Other important resources at risk in the Highlands include state and county parks and other forestland, public watersheds, and the Highlands Trail.

The loss of landscape connectivity would cause "habitat loss, habitat alteration... the isolation of habitat patches, increased edge habit, the disturbance and direct mortality of wildlife, and the isolation of some species."

#### Other Ecological Impacts

The study also mentions additional ecological impacts of the proposal.

It cites a loss of natural forest cover, erosion during and after construction and from the creation of new vehicular access roads, an increase in illegal ATV trespass, potential water and soil contamination from herbicides used to maintain the corridor, and the spread of invasive species in disturbed areas.

We are especially concerned that "the installation of taller towers with transmission lines above the current tree height could adversely affect migratory birds" and that several federal and state-listed critical species residing near or along the proposed routes could be affected by construction activities and the resulting habitat loss.

#### Economic Impact

The impacts to viewsheds, recreation resources, land connectivity, and ecology will have a negative cumulative impact on visitors' experiences of the area, resulting in a diminishing economic value for outdoor recreation in the region.

Although the DEIS describes potential "opportunit[ies] for job placement during the construction period," it also states that there would be "impacts to the local and regional economy due to changes in recreation, visitation, tourism, and agricultural revenue," which could outweigh the potential benefits.

According to the National Park Service, there are approximately 5 million visitors to the park every year. As a concessionaire operating in the Delaware Water Gap for almost 20 years, the AMC is concerned that the power lines will negatively impact visitors' experience of the area. This would result in fewer visitors and a diminishing of outdoor recreation economy along the Delaware, which currently brings in 21 billion dollars a year to the four-state area.

In conclusion, AMC strongly opposes the expansion of the Susquehanna-Roseland transmission corridor through the Delaware Water Gap National Recreation Area. All proposed routes pose significant threats

to viewsheds, recreational opportunities, ecology, and the economy. The protection of ecological and recreational amenities in the Delaware Water Gap is the responsibility of the National Park Service. We urge you to adhere to your mission of "fostering conservation-based decision making." Please select the no action alternative and reject the power line.

## Correspondence (1916)

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## Correspondence Information

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## Correspondence Text

January 31, 2012

Morgan Elmer  
 National Park Service  
 Denver Service Center  
 12795 West Alameda Parkway  
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Dear Ms. Elmer,

American Rivers appreciates the opportunity to comment on the Susquehanna to Roseland 500-kV Transmission Line Right-of-Way and Special Use Permit Draft Environmental Impact Statement - DEIS December 2012 (EIS). We support Alternative 1, the No Action Alternative discussed in the EIS. We believe construction of the proposed project would have direct and adverse impacts on units of the National Park System, including the federally designated Middle Delaware Scenic and Recreational River and National Recreation Water Trail.

American Rivers was founded in 1973 to preserve the rivers and clean water that is integral to the well-being of human and natural communities. Since then we have helped to increase the size of the nation's Wild and Scenic River system by over 50%; assisted communities in restoring rivers through the removal or modification of hundreds of obsolete dams; improved the quality of water supplies by working to reduce stormwater and sewage pollution; and revitalized critical habitat for threatened fish and wildlife populations. American Rivers is frequently called upon to share its scientific and policy expertise on behalf of rivers and clean water, and we deliver leadership to the nation's growing river conservation

movement. American Rivers works across the country, with staff in Washington, DC and the Mid-Atlantic, Northeast, Midwest, Southeast, California and Northwest regions. American Rivers has more than 65,000 members and supporters, with offices in Washington, DC and nationwide.

The Middle Delaware National Scenic and Recreational River was established as a one of the nation's first Wild and Scenic Rivers. The purpose of this designation is to protect and enhance its values. Millions of visitors travel to the Delaware River each year to experience nature, appreciate the beauty of the river recreate. water based recreation. More than 15 million people rely on the water of the Delaware River Basin for public water supply and is noted for its outstanding water quality.

The project described in the EIS would adversely impact the values for which the Middle Delaware Scenic and Recreational River was federally designated. Section 10(a) of the federal Wild and Scenic Rivers Act requires federal management agencies administer designated rivers to protect and enhance the values for which they were designated. "Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its aesthetic, scenic, historic, archaeological, and scientific features." (16 USC § 1284(a)) The Susquehanna to Roseland 500-kV Transmission Line would impair the aesthetic, scenic and recreational experience of users of the river, potentially degrade wetlands and rare and unique species, and increase erosion and sedimentation in the Delaware River watershed. Because of the impacts to the values for which the Middle Delaware River was designated only Alternative 1 would meet the standard required under the Wild and Scenic Rivers Act.

The National Park Service is charged with conserving the scenic, cultural, and natural values of the units of National Parks, including Wild and Scenic Rivers so that these treasures can be available unimpaired for future generations. We believe the only viable alternative for the National Park Service to meet this charge and the standard set by the Wild and Scenic Rivers Act and other applicable federal law is Alternative 1, the No Action Alternative.

Sincerely,  
David Moryc  
Senior Director of River Protection  
American Rivers

## Correspondence (1691)

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## Correspondence Information

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## Correspondence Text

Public Comment Input  
 National Park Service Draft Environmental Impact Statement Regarding Proposed Susquehanna-Roseland Transmission Line in National Delaware Water Gap

January 28, 2012

Submitted on behalf of  
 Sierra Club, Pennsylvania Chapter

Contacts:  
 Nicole Faraguna (ndfhome@tds.net)  
 Donald W. Miles, Esq. (donmiles@rcn.com)

## INTRODUCTION

Thank you for this opportunity to comment on the National Park Service's (NPS) Draft Environmental Impact Statement (DEIS) regarding PPL Corporation and PJM's proposed Susquehanna-Roseland Transmission line to be constructed across 4.18 miles of the Delaware Water Gap National Recreation Area (DWG). These comments are submitted on behalf of the Pennsylvania Chapter of the Sierra Club (The Chapter). These comments are in addition to comments that have been submitted to you by the Otzinachson Group and the Lehigh Valley Group, Northeastern Group of the Pennsylvania Chapter of the Sierra Club and by the New Jersey Chapter of the Sierra Club. The Chapter respectfully urges the National Park Service (NPS) to choose the "no-action alternative" to PPL's proposal to construct multiple 150 foot towers and 500 kV transmission lines traversing the entire width of the recreation area.

The National Park Service (NPS) has been given the great responsibility of caring for a vast, beautiful

natural resource, the DWG, and the largest protected natural area in the northeastern metropolitan corridor. NPS' mission is to provide outdoor recreation opportunities while conserving the natural, cultural and scenic resources of the recreation area. In so doing, the park works cooperatively with surrounding communities and the public to achieve the conservation goals of the Delaware River region.

Through this mission, the NPS has the capability and duty to amply protect this important natural resource from the industrial development that would occur during the construction of massive transmission towers and installation of over 4 miles of transmission lines as well as the future maintenance required to repair and maintain the infrastructure.

#### NEED

We strongly oppose the NPS' decision to exclude the consideration of need for this high-voltage transmission line as a factor in its DEIS. The Sierra Club, Pennsylvania Chapter maintains that the NPS can not adequately study and consider the no action alternative without first understanding whether the transmission project is, in fact, needed. NPS must apply a due diligent approach, under the National Environmental Policy Act, in carefully reviewing all aspects of this project, as NPS is the last recourse in determining if this project should in fact go forward. Can NPS in good conscience approve this project that will forever change the landscape of the DWG when it has not investigated whether in fact the project provides public benefit? Why sacrifice a significant portion of a national jewel for a project that is not necessary?

The most significant argument that NPS could use in recommending the "no action" alternative would be PPL and PJM's own failure to prove that the Susquehanna-Roseland transmission line is indeed necessary based on demand and, if built, will provide a true benefit to consumers. In particular PJM/PPL have failed to illustrate:

#### Tangible Need of Project:

##### Anticipated Demand Conflicts Reality

While the rationale for the project was an anticipated 1.4% increase in peak demand in 2008, PJM Interconnection reported that actual demand for electricity was down, and would continue to decline. In January, 2009, PJM released a 2009 Load Forecast, which assumes a 4,929 megawatt decrease in the projected electric load for the region. In fact, in December 2009, a utility proposing a similar high-voltage transmission line, Potomac Appalachian Transmission Highline (PATH), filed a motion to withdraw their application in Virginia. The company had run some new modeling scenarios ordered by the Virginia hearing examiner, and found that the PATH line is NOT needed by 2014.

Furthermore, the Energy Information Administration (EIA) projects that electricity demand will fall 0.5% in 2012, after increasing a minuscule 0.3% in 2011. Structural changes in energy markets like the increase in demand response from 30,000 megawatts to 43,000 megawatts between 2010 and 2011 are driving down at a minimum the rate of electricity demand increases and could even be flattening out electricity demand.

In a letter written by several environmental organizations, including the Eastern Environmental Law Center and Earthjustice, to the Superior Court of New Jersey regarding the rehearing of the Susquehanna-Roseland Line, new factual developments are identified to underscore the exaggerated need for this project:

"PJM has recognized a significantly diminishing need for the delivery of electricity into the area that the Susquehanna-Roseland line is intended to serve. On January 14, 2011, PJM released the 2011 Load Forecast Report, in which it presented markedly lower electric demand forecasts than had previously been used as the bases for transmission planning.

"The Mid-Atlantic Power Pathway ("MAPP"), another west-to-east transmission project approved by PJM in 2007, originally was deemed necessary by 2013 to address reliability violations. The 2009 RTEP deferred the project until 2014. Now, in light of the 2011 load forecasts, PJM 'has decided to hold the MAPP project in 5 abeyance' with a 2019 to 2021 in-service date.

"The consistently diminishing need for the PATH and MAPP lines with each passing year- a trend that ultimately resulted in the suspension of those projects in light of the 2011 load forecast - is paralleled in the case of the Susquehanna-Roseland line"... "In short, the Project [was approved on] grounds that it would be needed to address 23 reliability issues and that future projections would not reduce the number of these reliability issues. As present circumstances stand, however, this \$750 million transmission line will be constructed to address five reliability concerns that are alleged to occur under double contingency scenarios and only on lower-voltage transmission lines, which are likely amenable to lower cost fixes.

"As PJM has concluded, demand response resources alone are sufficient to address the need for the Susquehanna-Roseland line for at least the next three years.

"Increased availability of demand response resources is another key factor that the Board did not consider in approving the Susquehanna-Roseland line"... "This new information reflecting the significant demand resources available to the regional transmission grid further calls into question whether the costly construction of the Susquehanna-Roseland line is reasonably necessary.

#### Increased Energy Efficiency

The Susquehanna Roseland Transmission Line is inconsistent with PA Act 129, the Energy Efficiency and Conservation Act. Pennsylvania's energy consumption is likely to decline, not increase, since under the Act, utilities must reduce electricity consumption by 1 percent by May 31, 2011, and by 3 percent by May 31, 2013. The Act also requires a 4.5 percent reduction in peak demand by May 31, 2013. As this could have a significant impact on regional, transmission needs, the approval of Susquehanna Roseland Transmission Line is premature and inconsistent with the Act, especially given that energy efficiency and conservation plans must be filed with the Commission by July 1, 2009. To comply with the new act, the PUC will also oversee consumption forecast guidelines, the analysis of the reductions and compliance, smart meter technology; time-of-use rates; real-time pricing plans; default service procurement; market misconduct; alternative energy sources; and cost benefit analysis, so it is in the public interest that any new transmission line proposals be delayed until impacts and opportunities of these measures are fully understood. Electricity generation should be conducted after first eliminating wasteful practices, programs and systems as completely as possible and creating full energy efficiency, while using the maximum renewable energy systems available at a time and that are appropriate for a geographic region. Conservation and efficiency plans should be developed by existing electricity generating facilities, sources and units in order to cut demand. Generators and distribution utilities should proactively promote energy conservation in the communities that they serve. Existing sites of electricity generation should be re-used as a first priority whenever possible and converted to less-polluting technologies and renewable fuel sources.

#### Measured Benefits to Residents and Consumers

Regional ratepayers, which include Pennsylvania consumers, will absorb the costs of this \$1.2 billion project in increased transmission fees, as deregulation of the electricity industry in Pennsylvania removes rate caps. Commonwealth residents will also assume the long-term costs of the environmental degradation associated with the construction of the line. Pennsylvania has overcapacity in electric generation which results in utilities exporting electricity to other states. Pennsylvania residents are being forced to pay for this new line, both in an increase in utility fees AND the consequences to its natural resources, while residents of other states will benefit from the electricity it carries.. PJM is conducting its own reliability studies and planning, yet has a vested interest in the outcome so is not likely to complete a comprehensive analysis that might decrease their own profits. In addition, the property values for

residents who own property near or along the Susquehanna Roseland Transmission Line would also be negatively affected, adding to their already declining values in the housing market.

#### Reasonable Alternatives to Transmission

Maintaining reliability of the grid system was another justification of the project, based on PJM's 2006 RTEP (Regional Transmission Expansion Plan) study for reliability. Yet two Pennsylvania Administrative Law Judges recommended that the PA Public Utility Commission completely deny a similar application submitted for the TrAILCo transmission line, in part because PJM's RTEP study for reliability was "designed to consider only transmission solutions," ...and " did not consider viable alternatives to transmission." PG 22, November 13, 2008 PUC Public hearing minutes.

#### Increased Clean Energy Production

Since coal fired generation costs less, it traditionally gets dispatch priority. The Susquehanna Roseland Transmission Line is in close proximity to PPL's Montour coal plant in nearby Washingtonville, which would facilitate an increase in mining and or and greenhouse gas emissions here in the Commonwealth. Therefore, the Susquehanna-Roseland line will not rely solely on sustainable energy sources, forcing Pennsylvanians to subsidize the reckless abandonment of clean and green technologies and inherit a dirtier and unhealthier future. The Memorandum of Understanding signed by the Department of Interior and carried out by the National Park Service throughout this process in order to comply with the Energy Policy Act of 2005 specifically addresses the importance of projects that "harness the power of clean, renewable energy".

Based on this information above, we respectfully request that NPS consider alternatives that preclude the building of this line.

In addition to the concerns identified above regarding the overall need of the project, the Susquehanna-Roseland Line also poses significant environment threats both in general and specific to the DWG.

#### "MITIGATION" PROPOSAL

The Chapter also has strong concerns regarding PPL's mitigation proposal, which involves the utility's purchase of thousands of acres of land adjacent to the DWG if the proposed transmission line is approved. The purchase of adjacent land does not in way mitigate the permanent damage of this project. The utility has failed to provide a mitigation plan that addresses the direct impacts of construction of this project. How will issues related to construction, soil removal, deforestation, erosion, water contamination, protection of wildlife habitat and endangered species be addressed by PPL though its mitigation plans.

This proposal seems less of a mitigation plan and more like a quid pro quo (i.e., "a proposed bribe", the utility agrees to the purchase of the land if the NPS approves the project. In addition, the Chapter maintains that the utility's proposal is disingenuous since 1) the utilities will most likely use rate increases to cover the costs of this land acquisition so in addition to the 13.5% guaranteed return on its investment it will receive from the construction of the line through increased rates, it will also ask rate users to pay for its "mitigation", which, again, would not provide any mitigation for the project; and 2) more importantly, the utility does not acknowledge or address the complexity of the process of landscape acquisition, which would require approval of a number of landowners, deed and title work, and various legal hurdles. Land acquisition of this size could take many years, as is documented in many of the Commonwealth's large land conservation acquisitions, or just may not be feasible. Thus, the suggestion of such a project could merely be in vain. Not only is it not effective mitigation for the type of construction proposed in the DWG but it would leave the communities surrounding DWG, the NPS and the citizens of this nation not at all compensated for the destruction and taking of public land. What happens if the utility is unable to acquire these thousands of acres?

#### OVERALL ENVIRONMENTAL IMPACT

If built, the Susquehanna Roseland line will precipitate some of the oldest and dirtiest coal plants in the country to increase output and therefore air pollution because coal produces electricity is cheapest more

cheaply and would receive priority for transmission . This pollution will exacerbate mercury contamination, ground-level ozone formation, regional haze, acid rain, fine particulate pollution and, as a result, asthma and other respiratory illnesses, heart attacks, and premature deaths. This new air pollution load guarantees increases in air pollution's total burden in PA that vastly increasing the costs to public health and would be coming at a time when PA and the region must comply with new upcoming federal ground level ozone control standards and new federal mercury regulations. The new ozone controls and emission limitations will be increased to a level where it is expected that noncompliance with ozone smog controls will be triggered in almost all PA counties for ozone smog. Since PA is producing more electricity than it needs and will be required to increase energy efficiency and increase energy conservation, then there is no need for more power generation, more electricity transmission, nor new power plant construction.

To date, Pennsylvania has a total of 78 coal-fired energy plants, 13 of which were operated by PPL. These 78 plants represented about 41.5% of the state's total electric generating capacity.

Burning coal is a leading cause of smog, acid rain, global warming, the neurotoxin mercury and other air toxics. Proposed Mercury regulation in 2007 alone generated 11,000 comments to PADEP from PA citizens in support of controlling this deadly neurotoxin. In an average year, a typical coal plant generates 3.7 million tons of CO<sub>2</sub> which is a leading contributor to global warming. In 2007, Pennsylvania ranked 4th highest in the country emitting CO<sub>2</sub>, emitting 136 million tons.

Because coal would be transmitted through the Susquehanna-Roseland line, the following are likely impacts:

**Increase Health Risks - Coal kills people and causes disease:** According to the American Lung Association, pollution from coal-fired power plants causes 23,600 premature deaths, 21,850 hospital admissions, 554,000 asthma attacks, and 38,200 heart attacks every year. The Center for Disease Control estimates that 12,000 coal miners died from black lung disease between 1992 and 2002.

**Facilitate Global Warming - Coal is the largest single source of global warming pollution in the United States.** The Intergovernmental Panel on Climate Change has reported that global warming threatens human populations and the world's ecosystems with intensifying heat waves, floods, drought, and extreme weather and by spreading infectious diseases.

**Increase Air Pollution - Coal-fired power plants emit hazardous pollutants into our air, land, water, and lungs:** Materials emitted from coal power plants include: arsenic, beryllium, cadmium, dioxin, lead, formaldehyde, and mercury. Tiny soot particles include harmful sulfates and sulfur dioxide, leading to medically measured increases in human asthma, hospital admissions and mortality from exacerbated cardiovascular disease and chronic lung disease.

**Forest Mortality - Pennsylvania continues to have high levels of tree mortality linked to acid precipitation and deposition from sulfur compounds emitted from power plants, in the sugar maple and other vulnerable PA forest species; which include important agricultural and economic forest crops, significantly impacting PA's economy.**

**Contaminates Fish - Mercury emitted from the coal plants into our oceans and lakes turns into methylmercury, a potent neurotoxin that can cause severe neurological and developmental damage in humans, especially small children and fetuses. This can happen primarily from eating contaminated fish and shellfish.**

**Coal Levels Mountains & Causes Deforestation - Many coal companies utilize mountaintop removal to extract coal. Mountaintop removal has leveled more than 450 mountains across Appalachia. Mountaintop removal destroys ecosystems, stripping away topsoil, trees, and destroys habitats, filling streams and valleys with rubble, poisoning water supplies and generating massive impoundments that can cause catastrophic floods. This practice tragically has transformed the landscape and historically**

rich natural system in parts of Appalachia, leveling and deforesting an area the size of Delaware and burying an estimated 1,200 miles of streams.

In addition to the impacts from coal-fired plants, is the impacts of nuclear energy, which would also feed into the Susquehanna-Roseland line. Although nuclear energy plants do not emit greenhouse gases, they do produce harmful radioactive waste such as Depleted Uranium (DU). DU is, according to the to the Military Toxins Project, the radioactive byproduct of the uranium enrichment process, is "roughly 60% as radioactive as naturally occurring uranium and has a half-life of 4.5 billion years." The United States has in excess of 1.1 billion pounds of DU waste material. Using uranium as a fuel in the types of nuclear reactors common in the United States requires that the uranium be enriched so that the percentage of U235 is increased, typically to 3 to 5%. To enrich uranium, a process called gaseous diffusion was developed by the United States in the 1940s. The gaseous diffusion process creates two products: enriched uranium hexafluoride, and depleted uranium hexafluoride (depleted UF6). The DU decay chain includes hazardous radioactive thorium, radium, radon, the radon "daughters" and lead.

There is no real way of disposing of the waste, the only option is to effectively manage the waste for the thousands of years until it decays completely. These contaminants can easily travel throughout different ecological systems and negatively affect humans.

#### DWG ENVIRONMENTAL IMPACT

The following input follows the major points of interest identified by NPS.

##### Impact on Natural Resources

**Forest and Wildlife Habitat** – The ridge tops provide critical habitat for a variety of wildlife as do the river beds and forests that lie within. In order for high-voltage transmission lines to be constructed and maintained, existing right-of-ways will have to be expanded and additional access roads will need to be constructed. The expanded line and new towers will impact three units of the NPS: the Delaware Water Gap National Recreation Area (DEWA); the Middle Delaware National Scenic and Recreational River and National Recreation Water Trail; and the Appalachian National Scenic Trail (AT). The construction of these roads will cause severe fragmentation of the forests and wildlife habitat and jeopardize wildlife diversity, and could negatively impact nesting and migration patterns. In addition, herbicides used to maintain brush within right-of-ways could endanger water quality and harm wildlife and human visitors. Under the National Park Service Organic Act, governing regulations and Park Service Management policies, NPS cannot grant the Right of Way if it will impair key values such as visitor experience, scenic resources, air quality, natural quiet, etc

**Water Quality** - The importance of waterbodies to biodiversity is illustrated by the number of rare species in this region associated with water. Protection of the wetlands, natural lakes, rivers, and creeks are vital, especially those that protect biodiversity, supply drinking water, and are attractive recreational resources. Protection of the critical watersheds is the only way to ensure that the water in the lakes, streams and wetlands will always be good quality. Construction activities in flowing or standing water would result in the greatest impact and could prove unavoidable as the project traverses the Delaware River and smaller streams and waterways. Long-term adverse impacts to surface water quality would occur as temporary roads near water crossings were constructed and remained in use after project construction activities were complete.

**Wetlands** - Wetlands and floodplains help protect the quality of surface water by impeding the erosive forces of moving water and trapping waterborne sediment and associated pollutants, protecting water supplies by assisting the purification of surface water and groundwater resources, maintaining base flow to surface waters through the gradual release of stored floodwaters and groundwater, and providing a natural means of flood control and storm damage protection through the absorption and storage of water during high-runoff periods. Potential impacts to wetlands associated with the construction and operation of this high-voltage transmission line project include: alterations to the wetland hydrology, alterations to the wetland plant communities, and loss of wetlands due to filling or sedimentation.

Bird Migration - More than 30 species of warblers have been recorded during spring migration. In the fall the Kittatinny Ridge provides an important migratory corridor for raptors. The Delaware River valley offers important wintering habitat for a large population of bald eagles attracted to the open water for foraging. Transmission lines pose a serious threat to migrating and nesting birds through both collisions and electrocution.

Endangered Species/Species of Special Concern – According to the Pike County Natural Inventory, certain Shale Cliff communities high above the Delaware River support good populations of a state-rare plant (SP510, SP512).

Geological Resources – Along the Delaware River in this region consist primarily of chiefly steep, stony and shaly areas along the river bluffs of the Delaware River. The major components of the landscape are the bluffs and cliffs and the material that has accumulated at the base of the slopes. Some of the most unusual plant communities in the county are found here and the bluffs add to the scenic quality of the Delaware River. The loose, shaly soil is mined from the base of the slopes for road surfacing and fill material. This community supports a good population of a state-rare plant (SP518) which is typically found on the Shale Cliff communities along the Delaware River. These geologic resources will be negatively impacted by the construction and maintenance of high-voltage transmission towers and transmission lines through the construction process and general maintenance through disturbance, deforestation, habitat fragmentation, erosion and subsidence.

Scenic Resources/Viewsheds - The views across this region will be compromised, as outdoor recreation and the tourism industry will be negatively impacted by these massive 500,000 volt, 150 foot towers cutting through and visually impacting DWG's landscapes. The transmission lines will also traverse a portion of the Appalachian Trail, the nation's longest marked footpath.

The NPS should complete a Scenery Management System to ensure a reliable, peer-reviewed method of comparing the visual impacts of alternative plans. This process is critical for projects that affect large areas of land and potentially impact the visual experience of large numbers of people.

Under the National Park Service Organic Act, governing regulations and Park Service Management policies, NPS cannot grant the Right of Way if it will impair key values such as visitor experience, scenic resources, air quality, natural quiet, etc

Socioeconomic/Community – The community may experience a loss of "place" as a result of the construction of high-voltage transmission lines as they will disrupt the natural serenity that current exists and will most likely be visible from several miles away. In addition, homeowners, in the vicinity of high-voltage transmission lines, could experience a sudden drop in home value as well as a permanent loss in property value. Market surveys have shown a fairly consistent and elevated concern regarding the perceived negative impact the proposed high voltage transmission lines will have on property values.

#### Visitor Experience

Obstructed Vistas –The DWG provides some of the finest views in the region but these amazing natural scenic vistas will be impeded by massive towers and ill-placed transmission lines.

Appalachian Trail – Some of the most amazing sights experienced at the Delaware River Gap are experienced by users of the Appalachian Trail. However, the high-voltage transmission line will traverse the trail and obstruct users' views and inhibit their natural experience.

Health/Safety Impacts – Constructing high-voltage transmission lines through a public recreation and natural area creates various health and safety issues. Securing off the area to ensure unauthorized individuals can not gain access is imperative.

Electrocution - Unauthorized persons climbing on power pylons or electrical apparatus are also frequently the victims of electrocution. At very high transmission voltages even a close approach can be hazardous since the high voltage may spark across a significant air gap.

Unknown Effects of EMF - Despite extensive research over the past 20 years, the health risk caused by Electro Magnetic Fields (EMF) exposure remains inconclusive. In 1998, an expert working group, organized by the National Institute of Health's National Institute of Environmental Health Sciences (NIEHS), assessed the health effects of exposure to extremely low frequency EMF, the type found in homes near power lines. However, based on studies about the incidence of childhood leukemia involving a large number of households, NIEHS found that power line magnetic fields are a possible cause of cancer. According to the Environmental Protection Agency, "the greater the distance between you and the power lines the more you reduce your exposure."

Cultural/Historic Landscapes - The DWG possesses a rich history in geological and cultural significance. The park encompasses significant Native American archeological sites as well as early settlement structures from the colonial period. The entire region was a frontier of the French & Indian War. Historic rural villages from the 18th and 19th centuries remain intact on the New Jersey side, and landscapes of past settlements are scattered throughout the park. DWG played a primary role in the formulation of the National Park Service's cultural landscape programs and the cultural resource policy established by the NPS in the late 1970's. As a result, cultural landscape preservation is now an established program in the National Park Service and a profession nationwide. High-voltage transmission lines constructed through the DWG would not only be a threat to the cultural, historical and natural characteristics possessed by DWG but a direct violation of the polices that were implemented by the National Park Service to protect the integrity of such landscapes. '

#### CONCLUSION

DWG is a unique landscape that encompasses 67,000 acres of mountain ridge, forest, and floodplain along the Delaware River and provides critical wildlife habitat, exceptional water quality streams and lakes that support wildlife and recreational opportunities, cultural and historical perspectives and beautiful protected landscapes. The National Park Service is responsible for conserving the natural, cultural and scenic resources of this amazing recreational area for current and future generations to enjoy. The people of this nation entrust the NPS to follow its mission in safeguarding these resources and protecting the nation's investment in our natural parks.

The Chapter strongly urges the NPS to choose the No Build alternative and decline the utility's request to construct the high-voltage transmission line through this unique landscape and instead follow its mission and keep this land intact in perpetuity.

## Correspondence (1737)

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## Correspondence Text

Public Employees for Environmental Responsibility (PEER) comments on the Draft Environmental Impact Statement (DEIS) for issuing a new Right-of-Way for the Susquehanna to Roseland 500 kV Electric Transmission Line across Delaware Water Gap National Recreation Area (NRA).

## 1. THE DEIS IS A CHARADE

The Secretary of the Interior and the Director decided that the alternative they will select is Alternative #2. Project proponents, Pennsylvania Power and Light (PPL) and Public Service Electric and Gas (PSE&G) insisted upon Alternative #2 in frequent meetings with Interior Department officials. Both the Secretary and the Director verbally agreed to Alternative #2 during meetings in the late summer and fall of 2011.

Thus, the contours of the project have been predetermined and the current environmental review process is merely a sham.

## 2. THE PRESELECTED ALTERNATIVE IMPAIRS PARK RESOURCES

Of all possible alternatives, Alternative #2 is the most destructive to the scenic values of the Delaware Water Gap NRA. Congress authorizes the Secretary of the Interior to issue rights-of-way "for electrical poles and lines for the transmission and distribution of electrical power" across areas of the national park system, including Delaware Water Gap NRA, under a general authority enacted in 1911 and found at 16 U.S.C. 5. However, this authority is circumscribed by other, more pre-eminent, acts of Congress.

The Organic Act of the National Park Service (NPS) of 1916 mandates that the Director "conserve the scenery" and other resources of the parks and "provide for the enjoyment of the same ...in such manner and by such means as will leave them unimpaired..."

The Alternative (#2) that the project proponents insist upon (and the Interior Department intends to

adopt) is the Alternative that MOST impairs one of the most critical resources of the park – its scenery.

The massive new towers in a new right-of-way will cross some of the most scenic, panoramic and untouched vistas in the NRA. The NPS cannot adopt Alternative #2, and then simply insist with a straight face that the Alternative does not impair park scenery. The NPS cannot evade the Organic Act mandate by issuing a simple, conclusory declaration that the impacts of Alternative #2 are acceptable because they do not rise to the level of "impairment." The DEIS does not support such a conclusion with a reasoned analysis. It is ludicrous to assert that major, long-term, adverse effects of Alternative #2 upon the scenery of the NRA do not "impair."

### 3. PEER ENDORSES THE "NO ACTION" ALTERNATIVE

PEER commends the NPS for openly acknowledging that the "No Action" Alternative is the environmentally preferred alternative as defined by the National Environmental Policy Act (NEPA) regulations. NEPA does not require a Federal agency to adopt the environmental preferred alternative, only that the agency identify and consider it along with other reasonable alternatives prior to taking action.

"No Action" is the environmentally preferred alternative because it would confine the existing, much smaller, power line to its current right-of-way. "No Action" is the environmentally preferred alternative not only because it would preclude the construction of a new, much larger line, in a new right-of-way but also because it would not foster (as does Alternative #2) a large increase in the production of a greenhouse gas (CO<sub>2</sub>) from the combustion of coal in Pennsylvania to add power for the New York-New Jersey Metropolitan Area.

It is beyond question that the Susquehanna-Roseland would foster large-scale burning of fossil fuel. At a time when the nation is awash in cleaner-burning natural gas and prices have fallen to lows not seen in several years, increasing the reliance on coal-burning power plants is the wrong strategy for America both economically and environmentally. The Susquehanna-Roseland project is a project in search of a justification. This is all the more reason why deliberately sacrificing one of the most scenic stretches of a magnificent national park is so unnecessary.

This single NPS decision to approve Alternative #2 will result in the production of more carbon dioxide than is being reduced by Director Jarvis' cosmetic initiatives to reduce such gases by park operations.

In contrast with NEPA, the Organic Act does prescribe an outcome the NPS must select. The fundamental purpose of the national park system is to conserve park resources and values. Conservation is predominant. The NPS declares that "No Action" Alternative is the "environmentally preferred" one. The "No Action" Alternative protects park resources and minimizes adverse impacts to park resources. The "No Action" Alternative is the one that comports with the Organic Act. Any notion that only the procedural requirements of NEPA govern the NPS choice of alternatives is wrong.

The "No Action" Alternative also preserves the property rights of PPL. That company possesses a right-of-way that pre-dates the creation of the park, and is a valid existing right. The existence of the PPL right-of-way does not confer on PPL a right or privilege to obtain a new right-of-way. Some project proponents (but not the DEIS) insist that the NPS must grant PPL a new right-of-way because PPL already possesses an existing one. That conclusion defies logic and is clearly incorrect.

### 4. THE DEIS INCLUDES A NONVIABLE ALTERNATIVE

The DEIS contains an Alternative #2B that would place the proposed new line within the narrow confines of the existing PPL right-of-way. This alternative is not viable. The existing right-of-way is too narrow to contain the new line in conformity to all industry norms and safety standards. Surely the NPS cannot pretend that its approval of such an action is reasonable, as if safety standards are of absolutely no concern to the NPS.

PEER does not understand why the NPS included Alternative #2B. The project proponents insisted that

the DEIS contain this Alternative for reasons that only they know. PEER suspects that PPL finds some benefit in blurring their existing right-of-way with their demands for a new one, as if the existing easement somehow strengthens their claim for a right to a new one. Whatever the reason for its inclusion, Alternative #2B is a bogus alternative.

#### 5. THE DEIS EXCLUDES OTHER REASONABLE ALTERNATIVES

The DEIS authors were instructed during 2011 to eliminate alternatives from further consideration in the internal draft of the DEIS that would have routed the proposed new power line so as to require little, if any, crossing of the NRA. Because a wider range of alternatives would complicate and prolong NPS and public review, PPL explicitly requested the elimination of Alternatives 6 and 7.

Prior to seeking a new right-of-way from the NPS, PPL obtained rights-of-way on lands outside of, and on both sides, of the NRA. PPL demands Alternative #2, because only that route forms the most direct link between their rights-of-way outside the NRA. No other route would do. They told the Secretary and his officials to not even consider the alternatives.

The Interior officials carried out PPL bidding by using a subterfuge. They altered the criteria the NPS used to evaluate the range of reasonable alternatives. The NPS tailored the criteria for reasonable alternatives to deftly eliminate #s 6 and 7. Nonetheless, the eliminated alternatives are within the realm of reasonable choices. Whether PPL approved of their consideration or not (and they did want them considered) is immaterial. NPS refusal to consider these alternatives violates both the letter and spirit of NEPA.

#### 6. THE DEIS CLAIMS THAT THE NPS HAS NO PREFERRED ALTERNATIVE

The DEIS contains no alternative that the NPS designates as the agency preferred alternative. This violates NPS own Reference Manual-12 (RM-12). Page 51 of RM-12 states:

"8. Preferred alternative-The preferred alternative is the agency-preferred course of action at the time a draft EIS or a public review EA is released. Unless your decision-maker has no preference, the preferred alternative must be identified in the draft EIS "so that agencies and the public can understand the lead agency's orientation" (1502.14 (e), Q4a). You may identify the preferred alternative in an explanatory cover letter to the draft EIS or in the text of the EIS. All final EISs must identify the preferred alternative. Therefore, if no preferred alternative exists at the time the draft EIS is released, you must identify it in the final EIS. For all externally initiated (i.e., non-NPS) proposals, you must identify the NPS preferred alternative in the draft (and final) EIS (516 DM, 4.10 (2))." Emphasis added.

PPL and PSE&G initiated the proposal to issue a right-of-way for a new power line. It is indisputably an "externally initiated proposal." The DEIS completely ignores the last sentence of page 51, RM-12 and fails to identify the NPS preferred alternative. Further, the DEIS gives no explanation why the NPS chose to ignore its own guidance.

This lapse and failure to adhere to agency guidance is made worse by the fact that the Interior officials, including the Director, have already decided the alternative they will select in the Final EIS and Record of Decision. They have chosen Alternative 2.

#### CONCLUSION

We know full-well that the NPS will approve Alternative #2 in the Final EIS. The President and the Secretary announced on October 5, 2011 that they would "fast-track" seven energy transmission projects across the country. The Susquehanna-Roseland Project was on that list. Fast-tracking the environmental review of the project is one thing, but the Secretary has already instructed his subordinates to approve Alternative #2. That is not "fast-tracking." That is "short-circuiting."

If the Secretary wants this power line so badly, then by all means have it. But approve an alternative that

and will provide a true benefit to consumers. In particular they have failed to incorporate recently released data from the Energy Information Administration that indicates demand for electricity is predicted to decrease. Their proposal also fails to consider energy efficiency and increased production of alternate or clean energy solutions.

If built, the Susquehanna Roseland line will precipitate some of the oldest and dirtiest coal plants in the country to increase output and therefore air pollution because coal produces electricity is cheapest more cheaply and would receive priority for transmission. This pollution will exacerbate mercury contamination, ground-level ozone formation, regional haze, acid rain, fine particulate pollution and, as a result, asthma and other respiratory illnesses, heart attacks, and premature deaths.

In addition to the impacts from coal-fired plants, is the impacts of nuclear energy, which would also feed into the Susquehanna-Roseland line. Although nuclear energy plants do not emit greenhouse gases, they do produce harmful radioactive waste such as Depleted Uranium (DU). DU is, according to the to the Military Toxins Project, the radioactive byproduct of the uranium enrichment process, is "roughly 60% as radioactive as naturally occurring uranium and has a half-life of 4.5 billion years." The United States has in excess of 1.1 billion pounds of DU waste material.

DWG is a unique landscape that encompasses 67,000 acres of mountain ridge, forest, and floodplain along the Delaware River and provides critical wildlife habitat, exceptional water quality streams and lakes that support wildlife and recreational opportunities, cultural and historical perspectives and beautiful protected landscapes. The National Park Service is responsible for conserving the natural, cultural and scenic resources of this amazing recreational area for current and future generations to enjoy. The people of this nation entrust the NPS to follow its mission in safeguarding these resources and protecting the nation's investment in our natural parks. We urge the NPS to deny the request to construct the high-voltage transmission line through this unique landscape and instead follow its mission and keep this land intact in perpetuity.

Sincerely,

Jack Miller  
Chair – Otzinachson Group of the Sierra Club

## Correspondence (1954)

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## Correspondence Information

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## Correspondence Text

Dear National Park Service Planning Team,

The Trail Conference strongly supports Alternative 1 ("No Action") in regards to the proposed expansion of the Susquehanna-Roseland power line through the Delaware Water Gap National Recreation Area and, particularly, as it affects the Appalachian National Scenic Trail. As the officially designated steward of the Appalachian Trail in New Jersey and New York, we oppose all options for construction that increase the already incongruous visibility power lines through this area.

The Trail Conference completed the original section of the Appalachian Trail between the Hudson and Ramapo rivers in 1923. By 1930, we had completed the 130-mile New York and New Jersey sections of the Appalachian Trail, including its current location traversing the Kittatinny Ridge to the Delaware Water Gap.

The Trail Conference currently maintains an additional 1,700 miles of trails in New York and New Jersey including many trails impacted along the proposed Route B of the Susquehanna-Roseland power line. The Trail Conference deploys over 1,500 volunteers per year in this effort. We are supported by approximately 10,000 individual members and almost 100 organizational members.

The current route of the Susquehanna-Roseland power line transects some of the state's most scenic resources, including the 860,000 acre Highlands Region, the Delaware Water Gap National Recreation Area, State and County parks and the Appalachian National Scenic Trail. The proposed Route B set forth by PSE&G follows the existing right of way passing through 15 different New Jersey municipalities, totaling roughly 45 miles in length. The ROW is proposed to increase to 300' in width and the heights of the towers will more than double to 195' well above tree line. The increased visibility of these towers in the open right of way will significantly degrade the view shed for local residents and DWGNRA tourists alike.

The Trail Conference has conducted a visual impact analysis and found significant degradation of the view shed, especially from the route of the Appalachian National Scenic Trail. While damage to the view shed has already been sustained due to the current transmission towers and right of way (See [http://www.nynjtc.org/files/PSEG\\_Viewshed\\_Existing\\_121608\\_0.pdf](http://www.nynjtc.org/files/PSEG_Viewshed_Existing_121608_0.pdf)), the increased width of the right of way and height of the transmission towers will make the power line visible from an additional 70,000 acres of land within a 10-mile radius of Route B. (See [http://www.nynjtc.org/files/PSEG\\_Viewshed\\_Proposed\\_121608\\_0.pdf](http://www.nynjtc.org/files/PSEG_Viewshed_Proposed_121608_0.pdf))

The greatest number of additional towers (90+) will be especially visible from the Kittatinny Ridge in the Delaware Water Gap National Recreation Area, where the Appalachian Trail currently includes numerous scenic vistas. (See [http://www.nynjtc.org/files/PSEG\\_Viewshed\\_Proposed\\_121608\\_0.pdf](http://www.nynjtc.org/files/PSEG_Viewshed_Proposed_121608_0.pdf))

Assumptions and methodology for this visual impact analysis can be found at [http://www.nynjtc.org/files/PSEG\\_proposed\\_vs\\_existing\\_viewshed\\_0.pdf](http://www.nynjtc.org/files/PSEG_proposed_vs_existing_viewshed_0.pdf).

The Appalachian National Scenic Trail and the Delaware Water Gap National Recreation Area have been preserved for the public to enjoy its scenic beauty and any further despoliation acceptable. To do so, would clearly degrade the quality of the land the National Park Service was designed to protect. The Trail Conference offers these comments as support for the National Park Service to vote Alternative 1 "No Action."

Further we urge PSE&G to remove the current power line so that the current ROW can be reforested. The power line, if needed, should be routed down the I-80 corridor as we stated in our scoping comments.

## Correspondence (1887)

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The Council on Environmental Quality's regulations (40 CFR §§ 1500 - 1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. §§ 4321 et seq.), define cumulative effects as:

"the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future action regardless of what agency (Federal or non-Federal) or person undertakes such other actions." (40 CFR § , 508.7).

Guidance to Federal agencies engaged in the NEPA review is provided in "Considering Cumulative Effects Under the National Environmental Policy Act" (1), and is referred to in this document for guidance on our comments.

The New Jersey Highlands is the source water supply for 64% of New Jersey's population(2) and is defined by the boundaries of its characteristic physiographic province, and as delineated in the federal Highlands Conservation Act of 2004 (PL 108-421). Additionally, the Highlands is a regional State Planning entity in New Jersey, with a roughly similar, but politically drawn boundary, defined in New Jersey's Highlands Water Protection and Planning Act of 2004 (PL 120 2004). As the Catskills region is to the water supply of New York City, the Highlands region is to New Jersey. The Highlands is a protected region of critical watersheds that ecologically filter ground and surface waters, which feed into a complex of reservoir systems that store relatively clean water supplying residential, commercial and industrial consumers in northern New Jersey's major population centers.

The water-bearing value of the Highlands, and the development pressures that continually threaten the region's sensitive ecology are by no means recent concerns. In 1894, the State Geologist reported , "there is abundant necessity that steps should be taken to guard the choice gathering-grounds of our

Highlands. These are pre-eminently the sources to which we must look for the future water-supply of the State, and the time when they will all be needed is apparently not a half a century distant. Indeed they are already coming rapidly into use, and to allow them to become contaminated from the threatening sources which we have called attention to will be unpardonably short-sighted." (3)

Although the physiographic and legislative boundaries of the NJ Highlands are outside of the three National Park Service (NPS) components that the Susquehanna to Roseland Transmission Line Project (S-R Project) would impact, they are hydrologically connected through overlapping basins within the Upper and Middle Delaware Watersheds. The alternative routes proposed in the NPS draft Environmental Impact Statement (DEIS) each more or less widen these overlaps. However, the incremental impacts of the S-R Project, when considered in combination with other linear utility projects that are currently underway or proposed, and with those that can be reasonably foreseen (and with even more certainty if the S-R Project is approved), impair the ecological functions of the Highlands watersheds to the extent that a 500 billion gallon/year water supply is permanently jeopardized.

Under NEPA, NPS must consider the cumulative impacts of the project. It should address "coincident effects (adverse or beneficial) on specific resources, ecosystems, and human communities of all related activities, not just the proposed project or alternatives that initiate the assessment process." Further, "the range of actions that must be considered includes not only the project proposal but all connected and similar actions that could contribute to cumulative effects."

Clearly, in an analysis under NEPA, NPS is directed to analyze impacts to more than just the project area within the agency's immediate jurisdiction, and NPS is directed to include the impacts of similar actions that are connected by geography or timing, including future actions if they are reasonably foreseeable. The range of actions, or the scope of the analysis that the EIS must include are those that when considered cumulatively are significant (CFR 40 1508.25).

The S-R Project is one of several linear utility projects under federal jurisdiction, whose cumulative effects upon a hugely valuable resource-the New Jersey Highlands-are significant and potentially devastating. There are three recently constructed or proposed natural gas pipeline projects: The completed Tennessee Gas Pipeline (TGP) 300-Line Project (FERC docket CP09-444); the proposed TGP Northeast Upgrade Project (FERC docket CP11-161) and Transco's proposed Northeast Supply Link Project (FERC docket CP12-30-000). All three pipeline projects are specifically for the purpose of transporting natural gas drilled from the Marcellus Shale formation in Pennsylvania to eastern distribution hubs. All four utility projects, which include the S-R Project, are routed through the core forests of the Highlands. Each project, viewed alone, has measurable impacts that impair the ecological functions of the Highlands forested watersheds, ultimately impacting the water supply to major population areas in New Jersey. The cumulative effect on this water supply, which is potentially huge, has not been assessed. In addition, if the drilling interests succeed in overcoming the regulatory constraints that reflect today's caution about hydro-fracturing of Marcellus Shale-derived gas and gas can be extracted at full potential, a need for additional pipeline routes through the Highlands is foreseeable. Recent comments at gas industry forums and trade publications discuss the need for pipeline infrastructure to transport gas derived from the Marcellus Shale region.(4)

In New Jersey the combined cost for residential, commercial and industrial water is the fourth lowest in the nation(5). The New Jersey Highlands provides more than half of the water supply to these sectors. It is primarily because of the unfragmented core forested watersheds of the Highlands, which naturally and for free filters our water supply, that New Jersey has an abundant supply of clean water. However, there is no level of governmental oversight that is assessing the cumulative impacts of linear utility projects on Highlands water resources. Although the New Jersey Highlands Water Protection and Planning Council-a State regional planning authority mandated by the 2004 Highlands Act-would be in a position to undertake such an analysis, the Council is short staffed, under budgeted and lacks the support of the Governor, who has publicly stated his contempt for the Highlands Act and a desire to repeal it(6).

Can the NPS approve the S-R Project without assessing its effects, in combination with the effects of

similar projects under federal jurisdiction, on as valuable resource as a water supply, as a component of the S-R Project EIS? Not if NPS were to adhere to CEQ regulations and guidance procedures. In fact, according to CEQ guidance, it is precisely these types of connected actions within a common geographic region that CEQ had in mind when it responded to the question, "When is an area-wide or overview EIS appropriate?" CEQ's response was clear:

"The preparation of an area-wide or overview EIS may be particularly useful when similar actions, viewed with other reasonably foreseeable or proposed agency actions, share common timing or geography. For example, when a variety of energy projects may be located in a single watershed, or when a series of new energy technologies may be developed through federal funding, the overview or area-wide EIS would serve as a valuable and necessary analysis of the affected environment and the potential cumulative impacts of the reasonably foreseeable actions under that program or within that geographical area." (7)

Whether NPS determines an assessment is part of the S-R Project EIS, or that an areawide EIS is appropriately triggered, the series of connected actions, which include the S-R Project, is clearly identified. An important public resource, water supply, is clearly impacted by these actions. CEQ guidance on considering cumulative impacts under NEPA are clear as well. It is not our intention in these comments to provide an assessment of cumulative impacts, but to alert NPS to a potential consequences of its actions and to request that it exercise its due diligence.

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January 18, 2012

## Correspondence (1829)

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## Correspondence Information

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## Correspondence Text

Thank you for the opportunity to provide comments regarding the Susquehanna to Roseland 500-kV transmission line right-of-way and special use permit draft environmental impact statement (DEIS).

The New Jersey Audubon Society is a privately supported, not-for-profit, statewide membership organization. Founded in 1897 and one of the oldest independent Audubon societies, NJ Audubon fosters environmental awareness and a conservation ethic, protects New Jersey's birds, mammals, other animals, and plants, especially endangered and threatened species, and promotes preservation of New Jersey's valuable natural habitats. The New Jersey Audubon Society has 23,000 members.

The decision of electric reliability needs is not one that falls within the areas of expertise of NJ Audubon. For that, we must rely upon relevant federal and regulatory agencies to evaluate the necessity of the line. However, what is within our expertise and what we believe it is important to comment on is the approach for determining the route of a line if the determination is made that it is needed and will be built. We do choose to comment on what are the appropriate avoidance, minimization, and mitigation measures that can be put in place to manage long-term natural resource impacts both from construction activities and from permanent placement of a line.

We also choose to apply a regional perspective in commenting on the DEIS. NJ Audubon is concerned with wildlife and habitat conservation within NPS lands but our interests also extend beyond park boundaries. National Park System lands provide important strongholds in the patchwork of protected habitats scattered throughout the region that sustain a diverse array of wildlife species. These lands and the wildlife that depend on them are interconnected and interdependent to varying degrees. For example, the persistence of a special status bird species within the Delaware Water Gap National Recreation Area depends on management within the park but also the ability of external habitat patches to sustain the metapopulation in the region. In addition, the state of immediately surrounding areas can have direct impacts on NPS lands by harboring and facilitating the spread of invasive species and pests

to NPS lands for example. Decisions regarding a new or upgraded bi-state transmission line must therefore also consider broader, regional implications to wildlife and their habitats. The information and analysis provided in the DEIS focus, understandably so, on NPS lands. As a result, however, the full impacts associated with any of the alternatives are unclear and it is difficult to identify which option would most effectively minimize disturbance to natural areas and critical wildlife habitat across the region if the upgrade is needed. The NPS would benefit from an approach that more specifically considers impacts to the surrounding region and NJ Audubon strongly encourages the NPS to apply a regional perspective in reviewing the alternatives and considering mitigation needs if necessary.

NJ Audubon would also like to offer what we believe are important guiding principles for determining the route of a line if it is determined that one will be built and for minimizing subsequent impacts to wildlife and habitat. These include the following:

1. A location should be selected that minimizes disturbance to natural areas and critical wildlife habitat across the entire route. The lowest overall impact would result from following existing power line right-of-ways (ROWs), avoiding sensitive natural areas (e.g. wetlands, floodplains, threatened and endangered species habitat, important bird areas), and minimizing negative impacts to habitat connectivity across the entire route.
2. Proper measures should be taken to avoid and minimize impacts to wildlife and habitat during construction, operation, and maintenance of power lines and ROWs. As noted in the DEIS, there are a number of measures that can and should be taken to avoid and minimize impacts to sensitive wildlife and habitat (e.g. avoidance of the use of heavy equipment when maintaining ROWs that cross wetlands; adherence to seasonal restrictions on activities to avoid direct impacts to wildlife during sensitive times; adherence to best management practices to avoid bird collisions and electrocution associated with power lines and towers).
3. Mitigation must be viewed and implemented as an opportunity to enhance the status quo. Because all of the lands under consideration for a new or upgraded line should be those with preexisting ROWs, there is a unique opportunity to attend to some of the lasting effects of the original disturbance through implementation of a mitigation plan that directly addresses them. The utilities should develop a management and mitigation plan that directly addresses natural resource concerns and sets a goal to improve upon the status quo of those resources which are currently impacted by the existing line and will be impacted additionally as a result of an upgrade. In other words, the plan should be founded on a net gain standard with measurable and transparent benchmarks.

It is also important to note that ROWs do not have to mean a total loss in valuable wildlife habitat. A responsibly managed, pre-established ROW surrounded by a mature forest can offer increased vegetative diversity in the form of primary successional habitat. Many scrub-shrub bird species have experienced significant population declines (Askins 1993; Dettmers 2003; Schlossberg and King 2007; Sauer et al. 2011) and some have been identified as threatened, endangered, or species of conservation concern at state, regional, and national levels. Species declines coincide with a reduction in the amount of early successional habitat, including scrub-shrub habitats, in the eastern U.S. (Askins 1993; Lorimer 2001; Trani et al. 2001; Brooks 2003; Schlossberg and King 2007); thus, habitat availability appears to be a limiting factor for scrub-shrub bird species (Dettmers 2003). Because utility ROWs are permanently managed in an early successional stage, they can provide a potentially important source of habitat for scrub-shrub birds and other wildlife species, given the right management regime. Specifically, a number of studies have documented scrub-shrub bird species of conservation concern (Yahner et al. 2002, 2003; Confer and Pascoe 2003; Bulluck and Buehler 2006; King et al. 2009) and reptiles and amphibians (Yahner et al. 2001a, 2001b) using ROW habitats. ROW habitats in the NJ Highlands support breeding habitat for golden-winged warblers (DeFalco 2003, 2005), a state species of concern that has experienced steep declines and is under review for federal and state listing. Furthermore, ROWs in New Jersey and throughout the eastern U.S. provide habitat for a variety of other scrub-shrub species, such as the eastern towhee, prairie warbler, chestnut-sided warbler, indigo bunting, field sparrow, common yellowthroat, and gray catbird (Yahner et al. 2002, 2003; Confer and Pascoe 2003; DeFalco 2003, 2005; Bullock and Buehler 2006; King et al. 2009). Additionally, ROWs can provide habitat to invertebrates like the frosted elfin and are used opportunistically by snakes,

turtles, and raptors.

NJ Audubon recognizes the unique opportunity existing ROWs offer in terms of enhancing habitat for scrub-shrub dependent wildlife. Preliminary studies demonstrate that how well ROWs provide for these wildlife may depend on several vegetation characteristics (Kroodsma 1982), corridor width (Anderson et al. 1977; Confer and Pascoe 2003; King et al. 2009), and the type of management (Bramble et al. 1992; Yahner et al. 2001a, 2003; Confer and Pascoe 2003). Finding an approach to the management of ROWs that maximizes benefits to wildlife should be a requirement of any mitigation plan.

NJ Audubon appreciates the opportunity to comment on this DEIS. We strongly encourage the NPS to apply a regional perspective when considering all of the alternatives and to fully consider the guiding principles outlined above. Should an action alternative be selected, we would welcome the opportunity to comment on the mitigation plan.

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**VIA FEDERAL EXPRESS**

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**Susquehanna/Roseland Line 500 kV Transmission Line Project/  
Draft Environmental Impact Statement**

Dear PPL EIS Planning Team:

On behalf of PPL Electric Utilities Corporation (“PPL”) and Public Service Electric and Gas Company (“PSE&G”) (collectively PPL and PSE&G are referred to as the “Applicants”), we are writing to provide the Applicants’ comments on the Draft Environmental Impact Statement on the Susquehanna-Roseland 500 kV Transmission Line Project (the “DEIS”). The DEIS addresses the potential impacts from the construction of Applicants’ proposed Susquehanna-Roseland transmission line (the “S-R Line” or the “Project”) together with potential impacts from other alternative transmission line routes that have been analyzed by the National Park Service (“NPS”) for their impacts to the Delaware Water Gap National Recreation Area (“DEWA”), the Appalachian National Service Trail (“APPA”), the Middle Delaware Scenic and Recreational River (“MDSNR”) (collectively APPA, DEWA and MDSNR are referred to as the “NPS Units”) and the Cherry Valley National Wildlife Refuge.

The alternatives are known as Alternatives 1 (the no-action alternative), 2 (the Applicants’ proposed alternative), 2B, 3, 4 and 5. The purpose of the DEIS is to accurately inform the public and the federal decision maker of the environmental impacts of a proposed federal action. The purpose of the Applicants’ comments are to support the dissemination of accurate information to the federal decision makers and the public as the NPS considers the Applicant’s Special Use and Right of Way Application. We appreciate the hard work by the NPS and its consultants on the

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DEIS and believe that the addition of our comments will serve to make the final DEIS a full and complete environmental document.

Our comments are comprised of general comments that apply across all of the Alternatives analyzed in the DEIS as well as comments for each Alternative on its feasibility, specific resources affected or potential impacts.

*I. GENERAL COMMENTS APPLICABLE TO ALL ALTERNATIVES*

**A. Alternatives 2 or 2b are the only feasible Alternatives that meet the Project Purpose and Need.**

The Applicants' comments cover many aspects of the DEIS, but there are certain critical comments that when taken together lead to the inescapable conclusion that Alternative 2 and 2b are the only feasible alternatives for the Project. Further, Alternatives 3, 4 and 5 do not support the interests of the Applicants or NPS, and are more damaging to the environment largely because of the impacts of these Alternatives outside of the NPS Units and outside the DEIS's scope of analysis. The Applicants have enclosed as Exhibit 1 a DVD of a short video showing the critical constraints outside of NPS lands of Alternatives 3, 4 and 5 that make them infeasible. Each of the bulleted points below is discussed in greater detail later in this comment letter; they are summarized here to be certain that they are presented together for the benefit of the decision-maker. The Applicants believe that the DEIS should more clearly emphasize:

- the pre-existing nature of the Applicants' transmission corridor and line, including the cleared along its length inside the NPS Units, which existed long before the NPS Units were authorized and has always been part of the landscape and the visitor experience at the NPS Units;
- the Applicants' legal rights for construction, maintenance, operation and access that are found in the easements that created the ROW for the Applicants' line and to which, absent condemnation, the NPS is subject just as any other landowner would be;
- the complete and utter lack of equivalent functionality of any of the Alternatives other than 2 or 2b to maintain the reliability and capacity of the electricity grid within the timeframe required by PJM;
- the inability of any of the Alternatives other than Alternatives 2 or 2b to meet the Applicants' basic purpose and need of satisfying the in-service-date of June 1, 2015 required by PJM;
- the fact that Alternative 1 is not truly a "no build" alternative because the existing transmission line would need to be rebuilt within the next several years due to its age

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and this rebuilding will have impacts that are equivalent to the impacts associated with Alternative 2;

- the greater overall environmental impacts that would occur if a new ROW must be cleared and constructed as would be required for Alternative 3, 4 and 5; and
- the quality and scope of the Applicants' proposed mitigation in terms of avoidance and minimization of impacts and the compensatory mitigation offered by the Applicants for unavoidable impacts.

The NPS Director's Order #12 requires that alternatives considered in a NEPA review must be technologically feasible and make common sense. Alternatives 3, 4 and 5 pass the first part of the test in the very literal sense that towers could be built and wires could be strung, but do not pass the critical second part of the test involving common sense. The additional timeframe necessary to receive the amended approvals, design the line, conduct required environmental studies and secure the appropriate ROWs, permits and approvals for Alternatives 3, 4 or 5 would double or triple the timeframe by which the Project could be reasonably expected to be completed. This result would leave the region increasingly vulnerable to electrical reliability risks which could lead to higher prices for the consumer, operational restrictions and possible implementation of curtailment plans and such a result would fail to serve the basic Project purpose and need.

The Applicants are aware that a construction project of almost any nature within the NPS Units will have impacts. The Applicants believe that the impacts of the proposed Alternative 2 or 2b can be mitigated and that the incremental impacts associated with the construction of the S-R Line will in no way impair or be inconsistent with the authorized purposes of the NPS Units; they will continue to serve the same important natural resource and recreational purposes that they serve now with the existing transmission line and ROW in place. The same is not true for Alternatives 3, 4 or 5 which would involve much greater land disturbance and add new crossings of the Delaware River.

**B. The NPS continues to make an assumption that the S-R Line, once constructed, will be a "critical" element of the grid and thus be subject to more frequent maintenance and faster emergency repairs and therefore cause greater impacts to the affected NPS units.**

The NPS first raised this issue in Newsletter 2 for the S-R Line Environmental Impact Statement. The Applicants responded in our comment letter on the Alternatives dated September 13, 2010. The Applicants' prior comment has not been reflected in the DEIS and the Applicants are, thus, compelled to provide the NPS again with the reasons why the NPS's description of the "criticality" of the existing and proposed lines is flawed.

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The DEIS inaccurately states that the Applicants' proposed route would "convert the current transmission line corridor from noncritical to critical status" (DEIS, p. 3). The assumption by the NPS is that because of this presumed "non-criticality," a new line would be subject to more and faster maintenance and emergency repairs than the existing line, and that these activities would have a greater impact on the NPS Units than if the no-action alternative is selected. There are three fundamental problems with this analysis. The first is the assumption that the existing line is not critical: it is critical. The existing line is an integral part of the grid as evidenced by PJM's statement in its letter to the NPS dated September 13, 2010 that "[T]he existing 230 kV transmission line that crosses the NPS lands is critical to the PJM bulk electric system." The letter is attached as Exhibit 2.

The second flaw reflects the mistaken assumption that the intensity of vegetation management along the transmission corridor will increase with a change in voltage carried on the lines. The fact is that vegetation management for high voltage lines, whether 230 or 500 kV, is governed by state and federal grid reliability rules, which, on the federal side, now carry significant potential penalties of up to \$1,000,000 per day for rules violations.

The newly stringent federal vegetation management rules followed the 2003 blackout that affected parts of the Northeast and Midwest caused in part by contact between a tree and a transmission line. After that blackout, Congress enacted the Energy Policy Act of 2005, which amended the Federal Power Act by requiring the creation and enforcement of new bulk power system reliability standards. In March 2007, pursuant to that statutory mandate, the Federal Energy Regulatory Commission ("FERC") approved strict new requirements for vegetation management along bulk power transmission lines, including the existing 230 kV line, to ensure greater reliability of the nation's interstate electric grid (the FAC-003-1 Transmission Vegetation Management Reliability Standard). These are mandatory federal reliability requirements. The North American Electric Reliability Corporation (NERC) and regional reliability entities are responsible for overseeing and enforcing compliance with these standards. The Applicants are responsible for compliance with and implementation of these reliability requirements. In fact, PPL entered into a Settlement Agreement with the Reliability First Corporation (the regional reliability entity), in which it agreed to implement certain vegetation management requirements for its 230 kV and 500 kV lines throughout its entire service territory (including work within DEWA) by December 31, 2012. That Settlement Agreement was accepted by FERC. The Settlement Agreement and FERC Order accepting the settlement can be found at [http://elibrary-backup.ferc.gov:0/idmws/File\\_List.asp?document\\_id=13804492](http://elibrary-backup.ferc.gov:0/idmws/File_List.asp?document_id=13804492) and [http://elibrary.ferc.gov:0/idmws/file\\_list.asp?document\\_id=13813752](http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=13813752).

There is nothing about the structural differences between the existing 230 kV transmission line and the proposed S-R Line that would change applicable vegetation maintenance standards, emergency response times or other maintenance standards with which the Applicants must comply. The federal rules governing vegetation management along transmission lines, and reliability in general, stand entirely apart from the permitting decision now before the NPS. The proposed S-R Line would not result in additional or more frequent

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maintenance and emergency repairs. The construction of the S-R Line will not significantly affect the intensity or other aspects of the Applicants' activities in the existing ROW. Simply put, the construction of the S-R Line would not result in a net increase in impacts to the NPS Units from a vegetation management or operational perspective.

The third flaw is that any meaningful assessment of the impacts of Alternatives 1, 4 and 5 must recognize that the existing 230 kV line is over 80 years old. Field investigations of similar vintage facilities on the PPL system show significant signs of deterioration. If one of these other alternatives is chosen, the existing 230 kV line through DEWA will remain in place and will need to be reconstructed within the next 10 years. As a result, construction impacts are likely within the ROW no matter which alternative is selected.

**C. The NPS has not properly recognized the extent of the rights held by the Applicants for the existing transmission corridor crossing the NPS Units.**

The Applicants (or their predecessors in interest) acquired the various easements for the S-R Line in the late 1920's and constructed the S-R Line shortly thereafter. The language in these easements is very broad and gives the Applicants the right to construct or install transmission lines and include access rights for the purpose of exercising the rights to construct transmission lines.

The Applicants' pre-existing rights related to the corridor are substantial legal rights, and include the right to replace the towers, foundations and conductors, clear vegetation threatening the lines or towers or roads, and otherwise take reasonable actions needed to keep the line in service (including the right to build, use and maintain access roads) and in compliance with all legal and regulatory requirements that apply to electric transmission service. The typical language in each of these ROWs is: "The right to construct, operate, and maintain, and from time to time, to reconstruct its electric lines, including such poles, towers, wires, fixtures and apparatus, as may be from time to time necessary for the convenient transaction of the [Companies]."

The NPS has a role in managing the impacts of these activities on NPS resources, but does not have authority or a legal right to disallow them. The NPS has recognized this in its draft guidance dated June 2008, title "*Permit Requirements for Construction, Maintenance and Repairs of Utilities within Easements on Parklands*," when it differentiated between new ROW requests and existing easements. The NPS states in the draft Guidance:

However, there are occasions where the utility may hold an existing easement on parklands. Through an easement, the utility has acquired the right to use park lands for a specific purpose. It is important that park managers read the title file and deed for the tract of land encumbered with an easement to determine the full extent of the utility's rights. The deed will describe the limits of the easement, such as the width, or the number,

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type and size of facilities that may occupy the easement. The easement may give the utility the right to construct a new facility, increase the size or number of facilities constructed in the easement, perform maintenance or do repairs on a utility. The easement may also specify how the maintenance may be performed, i.e., vegetation removal through mechanical means.

The United States could have condemned the Applicants' easement rights when it acquired the many other private properties that today comprise DEWA and the APPA, but it did not do so and is thus subject to the terms of the easements just as any other landowner would be.

Additionally, a portion of the existing transmission line is located on land within DEWA owned in fee simple by PPL. The existence of fee title ownership of a portion of the existing line is further evidence of the strong property rights owned by the Applicants. If the NPS chooses any Alternative other than 2 or 2b then it would likely constitute a taking and the NPS should consider the costs associated with such a taking as it analyzes the operational impacts of Alternatives 3, 4 and 5 not allowing the use of Alternative 2 or 2b.

**D. The DEIS incorrectly assumes that the existing power line would be removed if Alternative 4 or 5 were selected.**

PJM studied the Susquehanna-Roseland 500 kV Project under the assumption that the Bushkill-Kittatinny 230 kV line (the "B-K Line") would remain in service. It should be understood that the S-R Line is required in addition to the existing system of 230 kV lines located in the eastern PA and Northern NJ areas, which includes the B-K Line section. The proposed S-R Line is not a replacement for any part of the existing electric power system.

As set forth in PJM's letter to the NPS dated September 13, 2010 ("PJM Letter"):

[T]he existing 230 kV transmission line that crosses the National Park Service lands is critical to the PJM bulk electric system, and the need for the Susquehanna-Roseland Project was recognized assuming that the existing 230 kV line remained in service. Additionally, the need for the Susquehanna-Roseland Project was identified because the existing transmission is inadequate. Thus, removal of an element of the transmission system, particularly the 230 kV Bushkill-Kittatinny line, would clearly worsen the transmission system. In addition, removal of the 230 kV line would negatively impact the planning and operation of the transmission system. Finally, the portion of the 230 kV line from Bushkill to Kittatinny is an integral piece of the existing 230 kV system and its elimination removes a key interconnection for several regional stations, which include Shawnee, Blooming Grove, Peckville, Monroe and Fox Hill.

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At an October 6, 2011 meeting with the NPS in Washington DC, Steve Herling, PJM's Vice-President-Planning confirmed the need for the Susquehanna Roseland 500 kV Project by June 1, 2012. Without the Project in-service by that time, several facilities exceed or approach overload conditions based on NERC category C5, double circuit tower line (DCTL) violations. The overloaded facilities, the percent loading, and the DCTL contingencies are shown in the table below. This analysis represents the up-to-date studies by PJM.

<b>Facility Overloaded</b>	<b>% Load</b>	<b>DCTL Contingency</b>
West Wharton – Greystone “J” 230 kV	104.30	Gilbert – Morristown and Portland – Greystone 230 kV
Newton – Lake Iliff 230 kV	107.74	Portland – Greystone and Kittatinny – Pohatcong 230 kV
Lake Iliff – Montville 230 kV	106.92	Portland – Greystone and Kittatinny – Pohatcong 230 kV
Kittatinny – Newton 230 kV	100.41	Portland – Greystone and Kittatinny – Pohatcong 230 kV
Portland – Greystone “Q” 230 kV	94.47	Gilbert – Morristown and Gilbert – Glen Gardner 230 kV
Greystone – Whippany 230 kV	93.10	Gilbert – Morristown and Gilbert – Glen Gardner 230 kV
Kittatinny – Pohatcong 230 kV	93.69	Gilbert – Morristown and Gilbert – Glen Gardner 230 kV
Glen Gardner – Chester 230 kV	91.60	Portland – Greystone and Kittatinny – Pohatcong 230 kV

PJM has developed a short term operational solution to address these overloads during the period between June 1, 2012 and the Project expected in-service date of June 1, 2015. The solution is to operate to the DCTL violations in real-time operation by adjusting generation and implementing Demand Response resources to maintain reliability. This solution increases both the risk of loss of service to customers and the cost of reliable operation and is not acceptable as a permanent solution.

More detailed information regarding the real world analysis of the removal of the existing transmission line and the inability of Alternatives 4 and 5 to be functionally equivalent to Alternative 2 or 2b are contained in letter from Greg Smith of PPL to the NPS dated January 11, 2012, a copy of which is attached as Exhibit 3.

Additionally, the deconstruction of the existing line would have the same construction impacts as the construction of the S-R Line. The same roads would be needed and similar ground disturbances would occur. The DEIS should include a discussion of those impacts.

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**E. Access Roads: The DEIS does not properly characterize the impacts associated with access roads during construction and operation of the S-R Line.**

1. The DEIS states that permits would be required for the access road construction (p. 39). As discussed in Section I.C., the Applicant's existing ROW includes access rights for transmission line construction and maintenance. The Applicants understand that any special use permit and ROW issued would have conditions related to the use and construction of access roads, but they do not expect that any other permits would be required for use of the access roads.

2. The DEIS states that access roads with gravel surfacing would remain in place and continue to be maintained following construction of the transmission line (p. 342). This statement is not correct because most of the access roads would be temporary and would be revegetated and/or restored following construction. The Applicants would only maintain permanent access roads on areas that are existing roadways or needed for ongoing maintenance as described in the Construction and Restoration Standards ("C&R Standards") attached as Exhibit 4.

3. Appendix F of the DEIS describes mitigation measures that could be applied to road damage, but incorrectly assumes that the mitigation would not be sufficient to change the level of impacts to NPS roads. The Applicants' plan to restore the public roadways to their pre-construction condition (unless otherwise instructed by the NPS for purposes of closing roads or limiting access) and see no reason why they would not be able to accomplish that commitment and thus there would be no lasting impacts to public roads within DEWA following construction.

4. The DEIS expresses concern over unauthorized off-road vehicle use that would occur as a result of access road construction associated with Alternative 2 (p. 548). The Applicants have two comments to this statement. First, if off-road vehicle use is a concern, then it should be applicable to all alternatives and not just to the existing ROW. Second, as a part of its mitigation, the Applicants can and will take the steps described in the C&R Standards to discourage off road vehicle use on temporary and permanent access roads.

**F. Endangered Special Status Species: The DEIS does not fully reflect the extensive work that has been performed by the Applicants to avoid impacts to endangered, threatened or special status species.**

1. Bog Turtles

One of the known species of greatest concern during construction of the S-R Line is the bog turtle. The Applicants have had extensive discussions with the USFWS and, as a result of this informal consultation, the USFWS has determined that no adverse effect would occur to bog turtles if the Applicants' proposed access road around the Arnott Fen were used and if certain

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other protective measures were taken, such as time of year restrictions. Therefore, the DEIS assertion that a Biological Assessment might be required for bog turtles is incorrect.

2. Indiana Bats

Potential impacts to the Indiana Bat were analyzed during the Applicants' planning process. The Applicants conducted Indiana Bat mist net surveys along the length of the existing ROW and proposed access road locations and no Indiana Bats were found. As a result, the USFWS issued a letter dated January 27, 2010 concluding that there was not likely to be an adverse effect for the Indiana Bat. This letter would apply to Alternatives 2 and 2B and this finding was not mentioned in the DEIS.

3. Eagles/Other Birds

The Applicants intend to follow the Avian Protection Plan standards set out by the Avian Power Line Interaction Committee (APLIC) and do not anticipate any adverse impacts to eagles or other birds. No eagle nests were found along the routes of Alternative 2 or 2B and the distance between the conductor is over 60 inches and is thus greater than the wingspan of all bird species.

**G. Mitigation**

The DEIS discusses mitigation and compensation measures on pages 68-69, and in Appendix F. The Applicants support the best management practices and mitigation measures described in the DEIS, including those listed in Appendix F. The various practices and measures are presented in a topical or categorical manner in the DEIS, and not as detailed, site- or condition-specific requirements. The Applicants will work with the NPS to determine how the various measures presented in the DEIS would be applied to the particular circumstances of the proposed project, if approved by the NPS. The C&R Standards comments detail the Applicants' specific plans for Project construction and maintenance. In addition, the Applicants propose to compensate for the unavoidable adverse impacts of the Project by creating and endowing a substantial fund to support acquisition and stewardship of lands and other resources in the DEWA region. The compensation fund is discussed in the second part of these comments on mitigation.

1. Avoidance and Minimization

The cornerstone of any mitigation strategy is avoidance and minimization of impacts. The DEIS describes a range of construction and operation best management practices and other measures intended to avoid and minimize project impacts; as detailed in our attached C&R Standards, the Applicant's Vegetation Management Plans attached as Exhibits 5 and 6, and the Project Safety and Health Plan attached as Exhibit 7. The Applicants commit to apply them. We have also attached as Exhibit 8 the S-R Project Compliance Table with Appendix F. The

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Applicants agree outright with about 160 of the approximate 200 mitigation measures listed in DEIS Appendix F. About a dozen or so require more information and further discussion with the NPS. The remainder are not applicable to the Project. But we believe firmly that consideration of avoidance and minimization measures should start at a different place.

The most significant choice facing the decision-maker about how to avoid and minimize the impacts of the proposed Project is whether to use an existing, already cleared corridor for the proposed project or to cut one or more new corridors through the forests and communities of eastern Pennsylvania and Northern New Jersey.

The Applicants recognize that the NPS does not have any siting authority outside NPS lands; that the proper decision before the agency is a decision about how to manage NPS resources; and that the NEPA analysis should be focused on that discrete question. But the context in which the NPS decision will occur is an essential part of the analysis required by NEPA. The context here is that the fragmentary segments of transmission corridors studied in the DEIS can have no purpose or value if not connected to other segments that would complete the Susquehanna to Roseland and Bushkill to Kittatinny circuits.

It would be arbitrary and unreasonable for the decision-maker to fail to take into account the fact that the NPS routing alternatives would require construction of new ROWs outside the areas actually studied and would inevitably cause a multitude of new significant impacts on the human environment. Those significant impacts are entirely avoidable by using the existing ROW for the S-R Line, as the Applicants have proposed.

The DEIS is potentially confusing regarding whether it is intended to inform the decision-maker and the public about the potential impacts of the proposed project and the NPS alternatives on just those places and things under direct NPS jurisdiction, or whether the analysis is intended to examine the various alternatives' impacts in all the places and ways they might actually occur. Even though some parts of the DEIS present lines on the map running from Susquehanna to Roseland or Bushkill to Kittatinny, the actual scope of analysis is much more limited. The DEIS looks at impacts in "study areas." The size and location of the study areas vary "depending on the resource being discussed." (DEIS at p. 33). The study areas are in or near NPS lands, or apply to resources directly affected by actions that might occur in NPS lands. Most of the potential mileage of the ROW needed for NPS alternatives is outside the study areas and is not actually identified or studied.

The NPS methodology for deciding where to look for impacts has an internal logic, and because the NPS has no siting authority outside its own lands, it makes good sense to limit the geographic scope of analysis in some way. But for the purpose of drawing comparisons among the alternatives, the boundary-drawing by the NPS has the potential to obscure the real world merits of the choices presented to the decision-maker. The methodology, however logical for other purposes, obscures the overwhelming mitigation value tied to the fundamental choice to use an existing ROW for the Project, which is also consistent with the APPA guidelines for

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encroachments on the Appalachian Trail, instead of creating one or more new ROWs. The use of an existing ROW for the Project avoids so many impacts that a decision-maker, faced with choosing among alternatives, could reasonably base a siting decision entirely on this single variable. There is no other variable or combination of variables that can be managed by the decision-maker to do a better job of avoiding impacts; none even comes close to being comparable. The Commonwealth of Pennsylvania and the State of New Jersey understood this point when they decided that the best place to site the S-R Line would be in the existing ROW connecting those two points.

This important shortcoming in the DEIS can be remedied easily. The DEIS would be much easier to understand and use if the document's discussion of mitigation measures were amended to disclose the fact that the Applicants' proposal can reasonably be expected to have dramatically fewer environmental consequences than any of the NPS Alternatives because the Applicants' proposal does not require creation of new transmission corridors connecting Susquehanna to Roseland and Bushkill to Kittatinny -- and the NPS Alternatives do. The precise mileage, placement and other circumstances of the new corridors outside the study areas do not need to be calculated because a reasonable decision-maker can anticipate with complete confidence that creation of new ROW 200 to 350 feet-wide (as estimated by the NPS) causes more impacts than placement of the same towers and conductors inside an existing, already cleared ROW connecting the same points on the grid, even taking into account the greater tower heights.

The Applicants recognize that their proposal to use the existing ROW must incorporate all appropriate measures to avoid and minimize impacts on the NPS Units, even after achieving so much benefit for the environment by avoiding construction of new ROW. This is also consistent with the NPS Draft Guidance on Parklands described in Section I.C. As noted above, the Applicants agree to employ the various measures cited in Appendix F. In this regard, we wish to clarify certain points of concern raised in the DEIS. The current plans for installation of the foundations for the tubular steel structures will likely involve drilling as the primary method of excavation rather than blasting. This should substantially minimize the NPS' concerns for the impact to the park with respect to geology, limestone formations, soils, and other resources. Once the Applicants are able to perform geotechnical investigations, the specific designs can be finalized and foundation requirements established. However, considering the geotechnical investigations that have been performed outside the DEWA, it is likely that blasting will not be required. Similarly, Applicants believe that blasting would not be necessary for Alternative 2b.

The Applicants are also exploring some additional design options, different structure types, and construction methods that could reduce or possibly eliminate the need for access road construction near some of the most sensitive areas of the DEWA. These approaches could also eliminate the need for any blasting for foundation installation. However, these techniques come with other implications that need to be discussed, e.g. significant helicopter use for demolition and construction. It must also be noted that these methods would not be applicable for Alternative 2b due to the width of the easement.

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The Applicants continue to be willing to meet with the NPS personnel and their consultants to discuss these issues.

## 2. Compensation for Unavoidable Impacts

The Applicants recognize that, even after full implementation of all possible measures to avoid and minimize impacts, the proposed Project will cause some adverse impacts on resources under NPS jurisdiction. Accordingly, the Applicants are proposing compensatory mitigation pursuant to a methodology and on a scale that recognize the great public value of the national parklands adjacent to the Applicants' transmission corridor. The intent of the proposed methodology is to more than offset every potential unavoidable impact of the proposed Project.

Our methodology is described in detail in Exhibit 9. It is based on approaches used by the NPS and other agencies in other NEPA analyses, including the NPS's assessment of communications tower impacts in Yellowstone. It also draws from the approach used to identify and mitigate for impacts associated with the proposed Project where it crosses the Highlands area in New Jersey. The approach takes into account all categories of potential resource impacts identified by the NPS in the DEIS, including impacts on protected species, cultural landscapes and viewsheds.

The Applicants' methodology is very conservative in the sense that it resolves uncertainties in favor of benefiting NPS resources. The approach considers all NPS-recognized categories of potential impacts within a seven-mile zone on either side of the transmission line corridor where it crosses NPS lands. The Applicants' methodology recognizes that the intensity of unavoidable impacts is likely in most cases to be greater on resources closer to the corridor than on the same resources located farther away. The approach applies to resources on more than 38,000 acres of NPS lands, an area equal to more than half of DEWA's total acreage, even though the transmission corridor itself comprises less than 100 acres inside the federal park lands, and the incremental right-of-way requested by the Applicants is less than 5 acres, or approximately .007 percent of the DEWA area.

As a point of perspective, to reinforce the decision-maker and public's confidence in the conservatism of the Applicants' recommended approach, we would call attention to the following: The Applicants recently performed a viewshed analysis as part of required historic architecture surveys. The intent of this analysis was to assess potential impacts of the proposed project (Alternative 2) on historic architecture within the vicinity of the DEWA and other NPS units. The area of potential effects (APE) for the historic architecture survey, proposed and authorized by the NPS on April 21, 2011, consisted of areas within DEWA that are within an 8-mile radius from the centerline of the existing transmission right-of-way. The viewshed analysis was conducted both 1) to consider only the effects of topography on visibility, similar to that in the DEIS; and 2) in a manner that would allow for the consideration of the potential effects of intervening vegetation on the Project's visibility.

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When considering only the effects of topography alone, the results suggest that there are approximately 22,900 acres within the 8-mile radius in the DEWA where some portion of the line could potentially be seen under existing conditions (i.e., with the B-K line in place). Following Project construction, this acreage would increase to approximately 24,700 acres. However, again, this analysis assumes that there is no intervening vegetation in a nearly completely forested park. When the effects of vegetation are also considered, only approximately 3,629 acres of land have unobstructed views of the line under existing conditions. With construction of the S-R Line, approximately 3,945 acres would have unobstructed views, or an incremental increase in viewshed impacts of 316 acres.

The Applicants are proposing to consider and provide compensatory mitigation for resource impacts occurring in an area of approximately 38,000 acres, an area 9.6 times larger than the total area of viewshed impacts, and 120 times larger than the area of incremental impacts, as calculated by the Applicants.

The precautionary approach being proposed by the Applicants is highly beneficial to the resource values of the NPS Units because the zone covered by the analysis is so wide and because it assumes that all NPS-recognized impact categories are present on all acres in the zone. The result is a very conservative quantitative estimate of the resources potentially affected by the Project, measured in acres, and a correspondingly conservative or protective estimate of the acreage of high resource value lands needed to compensate for the potential impact. This “worst-case” approach assures that the Applicants’ mitigation commitment will, at a minimum, be scaled to fully compensate for the unavoidable long-term impacts of the proposed Project.

The Applicants have tested the proposed compensation methodology under a range of assumptions about the selling prices of private lands in the DEWA region with high natural resource values. We have focused on parcels previously identified by land management agencies and conservation groups as important potential additions to the DEWA-area parks and refuges--lands with natural values that would be of great value to the public.

We have identified lands potentially for sale, most already on the market in some fashion, that offer great potential to benefit the public. If acquired for the public’s benefit, these parcels could preserve natural viewsheds from future development, enhance NPS- and USFWS-managed areas, tie together now-isolated parcels of state or federal conservation areas, provide wildlife

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corridors, expand public hunting and fishing, secure key protected species habitat, or allow for restoration of previously developed areas.<sup>1</sup>

The methodology would result in compensatory mitigation on the order of \$30-\$40 million. It is important to note that our approach is defined by impacts, and the natural values of mitigation lands, not by the cost of acquiring those lands. If the NPS determines, based on the outcome of the public comment process or other analysis, that the potential impacts of the Project are different than what we understand them to be, or that other lands are more suitable for mitigation than those we have identified, the amount of compensatory mitigation will change to reflect the NPS analysis. We welcome the opportunity to present this approach to the NPS.

The Applicants request that the DEIS be amended to reflect the following proposal regarding compensation for the unavoidable adverse impacts of the proposed Project on resources under the Department of the Interior's jurisdiction. To demonstrate our commitment to compensatory mitigation, and to allow the earliest possible implementation of compensatory mitigation measures, the Applicants have engaged and provided funds to a nationally respected land conservation organization to begin acquiring interests in private properties of high value to the Department of the Interior's conservation mission in the area around DEWA, MDSR, APPA and Cherry Valley National Wildlife Refuge.

The Applicants further propose to establish and endow the Middle Delaware Mitigation Fund (the "Fund"). The Fund would be administered by a not-for-profit organization with demonstrated expertise in land and resource conservation and successful collaboration with the Department of the Interior (the "Administrator"). Monies contributed to the Fund by the Applicants (the "Endowment") would be used by the Administrator for the purposes of

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<sup>1</sup> The Applicants and their consultants have collected a great deal of very specific information about lands that are for sale (in fee or pursuant to conservation easement) in the DEWA area. Most of the information is confidential and proprietary; all of it is sensitive. The potential to acquire the land for conservation purposes likely would be frustrated if the information were to be publicized. To meet the requirements of current owners, a substantial portion of the information has been obtained with the understanding that the Applicants would keep the information confidential. Based on our outreach to conservation partners and other investigations and analyses, we have identified, at this time, an overall universe of 650 parcels or interests in land that merit further consideration for use as compensatory mitigation including 425 tracts (39,500 acres) in Pennsylvania and 225 tracts (20,500 acres) in New Jersey. Of these, there is dialogue with landowners for the following parcels/acreage: 150 tracts (13,500 acres) in Pennsylvania, and 10 tracts (500 acres) in New Jersey. Of the parcels under dialogue at this time the following parcels/acreage are either under option, option pending or active negotiation: 12 tracts (10,700 acres) in Pennsylvania (\$34,000,000 fmv est.), and 5 tracts (410 acres) (\$2,600,000 fmv est.) in New Jersey. All of these figures are subject to change based on further analysis and discussion with agency land managers, conservation interests, and others. The Applicants have used the information in shaping our proposal for compensatory mitigation for the proposed S-R Project, while taking all appropriate measures to keep information private in anticipation that the lands might someday be secured for the benefit of the public. The Applicants are prepared to share information that is not governed by specific confidentiality agreements with the NPS immediately upon execution of such agreements that would assure that NPS and all other federal agencies and contractors would maintain the information provided by the Applicants' in confidence.

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preserving, restoring and enhancing Delaware Water Gap National Recreation Area, Cherry Valley National Wildlife Refuge, the Middle Delaware Wild & Scenic River segment, and the Appalachian National Scenic Trail within the Delaware River basin, including reasonable costs associated with administration of the Fund.

The Administrator would commit Endowment funds solely to projects or activities reviewed and recommended by the Secretary of the Interior, acting directly or through a designee, following appropriate consultation with representatives of the Commonwealth of Pennsylvania and State of New Jersey, and Delaware River basin-oriented conservation organizations and recreational interests.

The Applicants would convey funds to the Endowment following issuance by the NPS of all permits and approvals required by the NPS to be issued to the Applicants for all activities associated with construction, operation and maintenance of the Project, including but not limited to those permits and approvals requested by the Applicants on November 21, 2008 in the S-R Project SF-299 in accordance with the schedule below, provided that the terms and conditions of such permits and approvals must be reasonable, consistent with the purpose and need for the Project, including the need to have the Project in service by June 2015, and otherwise acceptable to the Applicants. The Applicants will convey funds to the Endowment on the following schedule:

1. Fifty (50) percent of the Endowment upon commencement of any construction-related ground- or vegetation-disturbing activities by the Applicants within the boundaries of Delaware Water Gap National Recreation Area or the Appalachian National Scenic Trail; and
2. Fifty (50) percent upon completion of construction of the Project within the boundaries of Delaware Water Gap National Recreation Area or the Appalachian National Scenic Trail and placement of the Project into service.

As used in this proposal, the term *construction-related ground or vegetation-disturbing activities* means activities by the Applicants or their contractors undertaken to prepare lands or fixtures for construction of the Project, including tower foundations, or to construct the Project, but not including routine right-of-way maintenance. The term *resources under the Department of the Interior's jurisdiction* means lands, waters, animals, plants, cultural and historical sites and objects, and other natural or human-made resources under the jurisdiction of the NPS or USFWS, including aesthetic values and the quality of the experience of visitors to Delaware Water Gap National Recreation Area, Cherry Valley National Wildlife Refuge, the Middle Delaware Wild & Scenic River segment, and segment of the Appalachian National Scenic Trail within or immediately adjacent to the Delaware Water Gap National Recreation Area.

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The total commitment of money by the Applicants to the Fund will need to reflect the NPS's final analysis of impacts potentially to be caused by the proposed Project. The Applicants understand that the analysis of potential impacts is subject to change and is likely to be revised to incorporate public comments on the DEIS received by the NPS. The Applicants recognize that resources under the jurisdiction of the NPS and USFWS are of enormous value in both a monetary and non-monetary sense to the American public and that the "cost" of any impacts on those resources is correspondingly high. The Applicants are prepared to commit funds in an amount that will fully recognize and show respect for the public value of the resources potentially affected by the Project. The Applicants submit that the methodology proposed in these comments, if accepted and applied, will ensure that there can be no basis for any reasonable party to conclude that the benefit to the resources at issue is anything other than substantially greater than the impacts of the Project.

#### H. Climate Change

The Applicants generally agree with the discussion in the DEIS related to the climate change impacts potentially tied to the S-R Line. On February 19, 2010, the President's Council on Environmental Quality ("CEQ") released draft guidance to federal agencies regarding consideration of the effects of climate change and greenhouse gas emissions in NEPA documents. <http://www.whitehouse.gov/sites/default/files/microsites/ceq/20100218-nepa-consideration-effects-ghg-draft-guidance.pdf> (also attached as Exhibit 10). Although that document has not yet been finalized, it provides useful direction for determining when a detailed assessment of greenhouse gas emissions would be meaningful. Specifically, the guidance notes that "if a proposed action would be reasonably anticipated to cause direct emissions of 25,000 metric tons or more of CO<sub>2</sub>-equivalent GHG emissions on an annual basis, agencies should consider this an indicator that a quantitative and qualitative assessment may be meaningful to decision makers and the public." The 25,000 metric tons-per-year threshold provides a rough -- but useful -- means of distinguishing between proposed actions for which a detailed analysis of GHG emissions is necessary and proposed actions for which no such analysis is required. The S-R Line does not emit any GHGs itself, let alone cross the 25,000 metric tons per year threshold. GHG emissions attributable to the Project are all indirect, and very small, stemming from vehicle fuel use during construction and, thereafter, during maintenance activities. The DEIS' treatment of GHGs is entirely appropriate and in compliance with CEQ's guidance.

The Project, once constructed, will not be an "indirect" source of GHG emissions. It will carry electrons from any generation source connected to the regional grid, and will not distinguish between those from renewable or other non-carbon sources and those from fossil fuel-fired sources. The specific generators that transmit electricity over the Project will not be constant on a day-to-day basis, as sources come into and out of service, and the general mix of types of sources will evolve over time in response to factors unrelated to the Project, such as environmental and climate change regulatory policy, fuel costs, the health of the finance sector, state land use and siting decisions, and tax policy. The movement of energy across the

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transmission line--which electrons move toward which users--will fluctuate constantly as power customers in the region change their usage throughout the day, week, month and year. The proposed line is every bit as likely to facilitate incremental renewable energy generation as it is to contribute to incremental fossil generation. The proposed Project does not conflict with any GHG or other electricity-related environmental policies enacted by Pennsylvania, New Jersey or the federal government. The Applicants' proposed route, using an already cleared right-of-way for 95-percent of its overall length, and all of its length that crosses NPS lands, would avoid the incremental carbon emissions that would inevitably be associated with the construction (i.e., clearing and grading) of one or more new right-of-way elsewhere as proposed under Alternatives 3, 4 and 5.

CEQ explicitly recognized in the draft guidance that "it is not currently useful for the NEPA analysis to attempt to link specific climatological changes, or the environmental impacts thereof, to [the] particular project or emissions." Or, stated in slightly different terms, it is not possible to determine -- or even to obtain additional information capable of resulting in an identification of -- specific, reasonably foreseeable climate change impacts of the proposed action or alternatives thereto. The DEIS's treatment of climate change is appropriate for this and every other reason.

**I. Visual Impacts: The Visual Resources study and analysis performed by the NPS has several flaws in the methodology used to simulate the potential visual impacts and in some of the assumptions underlying the methodology.**

1. Visual Resource Study Area is too broad as p. 557 states that the visual study area is 20 miles from DEWA. This is greater than typical visual study areas by a factor of at least two. Visual study areas for similar linear projects typically extend only 5 miles from the project boundaries. Even in the case of tall, highly visible structures such as wind towers, visual study areas are no greater than 10 miles from the proposed structure.

2. The Visual Resources Study used a bare earth analysis despite the heavily wooded character of DEWA, thus greatly overstating the visibility of the towers. The DEIS itself describes the landscape character of DEWA as heavily wooded and this should be taken into account in the modeling in the Final EIS to avoid an unrealistic depiction of the potential visual impacts. The existing vegetation provides significant screening capabilities for the S-R Line and this is not reflected in the DEIS. The Applicants suggest that the USGS Survey 2006 Land Cover Dataset accurately reflects the vegetated nature of the study area and should be used to more accurately depict the visual impacts.

3. Furthermore, the Applicants recently performed a viewshed analysis as part of required historic architecture surveys, a copy of which is attached as Exhibit 11 together with the DEIS bare earth figure to show the contrast. The intent of this analysis was to assess potential impacts of the project on historic architecture within the vicinity of the DEWA and other NPS units. The area of potential effects (APE) for the historic architecture survey, proposed and

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authorized by the NPS on April 21, 2011, consisted of areas within DEWA that are within an 8-mile radius from the centerline of the existing transmission right-of-way. The viewshed analysis was conducted both 1) to consider only the effects of topography on visibility, similar to that in the DEIS; and 2) in a manner that would allow for the consideration of the potential effects of intervening vegetation on the project's visibility.

When considering only the effects of topography alone, the results suggest that there are approximately 22,900 acres within the 8-mile radius in the DEWA where some portion of the line could potentially be seen under existing conditions. Following Project construction, this acreage would increase to approximately 24,700 acres. However, again, this analysis assumes that there is no intervening vegetation in a nearly completely forested park. When the effects of vegetation are also considered, only approximately 3,629 acres of land have unobstructed views of the line under existing conditions, and approximately 3,945 acres once the Project is constructed. These numbers represent the sum total of areas where either the existing or new Project would both be visible and not under forest cover.

4. Figures 77-86 of the DEIS show existing structures only within a short distance of the NPS Units, but show potential structures 20 miles from each NPS Unit. This is a comparison of apples to oranges and the only way to have an accurate comparison of the visual impacts is to use the same distances when analyzing the visibility of the structures.

5. Page 259 of the DEIS contains a statement regarding the air quality and visibility at DEWA that is misleading as it implies that visibility at DEWA is only affected by haze and that this effect only occurs on average 14 days out of each year and only during the summer months. In fact, there are other factors affecting visibility that should also be mentioned, such as weather patterns and moisture that can limit visibility in DEWA at any time of the year and for many more days than just 14 days.

6. The DEIS visual simulations in Appendix K were not prepared using the correct information as to ROW width, pole coloring or size and coloring of conduit. The biggest problem with Appendix K is that it assumes a 350 foot ROW for Alternative 2. For example, figures K-17 through K-19 show trees being cut along the Watergate Recreation Area – but these trees are not going to be removed because the ROW is not going to be as wide as the DEIS assumes. Figure K-12 near the Pioneer Trail is another good example of the overstatement of effects found within the NPS visual simulation exhibits. This figure shows a complete clearing, when in fact only a very limited amount of trees will be removed in this area.

The proposed towers are shown as light brown to orange in Appendix K. The self-weathering steel that will be used for the new towers typically weather to a neutral brown and is darker than shown on the simulation. Further, the size and appearance of the conductor shown in the visual stimulations for the Project is overly dark and exaggerated in thickness.

## J. Other Specific Comments

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1. Need for Action (p. i): This section should be amended to disclose the deadlines set by PJM for action by the Applicants to improve transmission capacity in the area and the financial burden currently borne by New Jersey electricity customers because of the lack of transmission capacity in the area. The second paragraph of this section should be amended to disclose with more precision the amount of acreage (4.6 acres) requested by the Applicants for additional right-of-way.

2. Background and Purpose of DEWA, MDSR, and APPA (pp. i, ii): This section discusses rapidly expanding population and associated development activity in the DEWA region. This discussion should be amended to disclose that the growing population of the Mid-Atlantic area, while it places demands on the NPS Units, also creates growing demand for reliable, affordable electric power, and would benefit from the reliability and capacity of the S-R Line and continued reliable operation of the B-K Line.

This section also discusses the values that led to creation of DEWA, MDSR and the APPA, and the substantial popularity of the NPS Units with recreationists and others. This discussion should be amended to explain that each NPS Unit was established by Congress with full understanding that the Applicants' transmission line and corridor were already in place. The discussion should also be amended to disclose that the rising and substantial visitation to and public enjoyment of the NPS Units has occurred notwithstanding the presence of the existing transmission line and corridor.<sup>2</sup>

The Applicants believe that the public's understanding of the decision currently before the NPS would be particularly enhanced if the DEIS were amended to describe more fully the circumstances surrounding authorization of DEWA. The Applicants recognize that public values and NPS priorities have evolved since DEWA was authorized by Congress as a NPS-administered recreation area in 1965. But the law that authorized DEWA is unchanged. The relationship between the NPS and the Applicants, as owners and managers of adjacent property interests, is largely a product of the law that created DEWA. That legacy is directly relevant to today's decision.

#### The Recreation Area was Authorized as a Component of a Multiple-Purpose Water Resource Project

When Congress authorized DEWA in 1965, it did so anticipating that the entire Middle Delaware area would be dominated by a new, large, multi-purpose federal dam and reservoir

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<sup>2</sup> Some visitors are attracted by the corridor. As the New Jersey Department of Environmental Protection has pointed out in its comments on the DEIS, the Applicants' corridor provides valuable habitat for certain songbirds, and the corridor through the NPS Units has become a popular destination for bird watchers. Letter from Scott Brubaker, Director, Office of Permit Coordination and Environmental Review, Department of Environmental Protection, State of New Jersey, to Mr. John J. Donahue, Superintendent, Delaware Water Gap National Recreation Area at 6-8 (January 24, 2012).

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project, Tocks Island Dam and Reservoir. Tocks Island had been authorized by Congress in 1962 as a principal feature of a comprehensive plan for development of the Delaware River basin.<sup>3</sup> The plan approved by Congress, hereafter referred to as the *Chief's Report*, contemplated eventual construction of 58 reservoirs, including 19 major control structures, to meet then-projected demands for municipal and industrial water, recreation, flood control, hydroelectric power and related purposes.

Less than three years after approving the comprehensive plan for the Delaware, Congress added to the authority for the Tocks Island Dam and Reservoir project by giving the NPS authority to manage the reservoir and adjacent lands as a "national recreation area." The recreation area was to be an integral part of the water project development. Congress authorized the new recreation area to:

further the purposes of the joint resolution approved September 27, 1961 (re Delaware River Basin compact; 75 Stat. 688), and to provide in a manner coordinated with the other purposes of the Tocks Island Reservoir project for public outdoor recreation use and enjoyment of the proposed Tocks Island Reservoir and lands adjacent thereto by the people of the United States and for preservation of the scenic, scientific and historic features contributing to public enjoyment of such lands and waters ....<sup>4</sup>

Congressional authorization for the Interior Department's mission at DEWA anticipated future use of the area for a substantial additional amount of human-made infrastructure serving the project's multiple purposes, including conventional and pumped storage hydropower, flood control, and recreation. Congress authorized the Secretary of the Interior to use the broadest possible scope of authority at DEWA, and did not limit the Secretary's discretion to the authority of the NPS Organic Act:

In the administration of the area for the purposes of this Act, the Secretary of the Interior may utilize such statutory authorities relating to areas of the national park system and such statutory authorities otherwise available to him for the conservation, management, or disposal of vegetative, mineral, or fish or wildlife resources as he deems appropriate to carry out the purposes of this Act.<sup>5</sup>

Congress did not unilaterally impose an expansive vision of multiple use management at DEWA on the NPS -- the NPS invited it. As described in *Damming the Delaware: The Rise and*

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<sup>3</sup> House Document No. 522, 87<sup>th</sup> Cong., 2<sup>nd</sup> Sess, Letter from the Secretary of the Army to the Committee on Public Works transmitting the Chief of Engineers Report on the Comprehensive Development of the Delaware River Basin (August 16, 1962) (hereafter "*Chief's Report*").

<sup>4</sup> Delaware Water Gap National Recreation Area, Pub. L. No. 89-158, § 1, 79 Stat. 612.

<sup>5</sup> Pub. L. No. 89-158, § 4.

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*Fall of Tocks Island Dam*, a leading history of events surrounding federal planning for development of the Delaware:

Recreation, more than any other feature of the Tocks Island Project, was used to sell the [Tocks Island Dam] project to the public .... The National Park Service was responsible for the recreation section of the [1962] *Delaware River Basin Report* .... Most of its parks are unique natural areas located in the less populated West. In the East, the National Park Service had been largely limited to servicing nationally important historical areas, such as Independence Hall in Philadelphia. The lack of park-service involvement in the East was the result of land passing into private ownership long before anybody had conceived of recreation as a governmental responsibility. Tocks Island Dam thus presented an opportunity for the park service to develop a major recreational facility in the heart of the populous eastern states .... The National Park Service concluded that ... Tocks Island Reservoir could become “the most significant non-urban recreation area in the Eastern United States.”<sup>6</sup> With nine major beach areas, thirty-one camping areas, boat rentals, miles of hiking and bicycle trails, horseback riding, picnicking, hunting, fishing, sailing, motorboating, canoeing, rock climbing, winter sports, nature centers, playgrounds, ball fields, historical sites, interpretive facilities (including Tocks Island Dam itself) and all the rest, the DWGNRA promised to have something for everyone. [DEWA] was being designed to handle up to 150,000 visitors per day, or 10.5 million per year. The national recreation area around Tocks Island Reservoir would be the busiest park in the National Park System, the largest east of the Rocky Mountains, the first east of the Mississippi River, and the first to be developed around a Corps of Engineers’ dam project.”<sup>7</sup>

The first management plan offered by the NPS after establishment of DEWA illustrates the intensity of recreational development that was anticipated. The NPS’s vision for DEWA included: “11,000 picnic tables, 6,500 camping sites, 135 boat ramps, 1,860 boat docks, 33,000 parking spaces, 15 food-service areas, and beaches for 66,000 bathers.”<sup>8</sup> DEWA was not established as a wilderness or ecological preserve, but as part of the major multi-purpose development plan for the middle Delaware River area envisioned in the *Chief’s Report*.<sup>9</sup>

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<sup>6</sup> Richard C. Albert, *Damming the Delaware: The Rise and Fall of Tocks Island Dam* 81-82 (2<sup>nd</sup> ed. 1987) (citation omitted).

<sup>7</sup> *Id.* at 87.

<sup>8</sup> *Id.* at 86.

<sup>9</sup> The Comprehensive Plan submitted to Congress (“*Chief’s Report*”) includes a detailed description of the recreational opportunities tied to the plan’s water development features. The recreation report, prepared by the NPS, says: “In view of the tremendous concentration of people in the Delaware River Basin, the greatest requirement for nonurban recreation purposes is usable land. This refers to acreage capable of absorbing large numbers of visitors on weekends and holidays and in areas of such size as to provide the nonurban setting desired. This means space for picnicking, beach space, parking areas, public service buildings, space for trails, scenic surroundings, and freedom from crowding. This “usable land” must of necessity be of such topographic character that it will be adaptable to

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The Secretary of the Interior, testifying in 1962 in support of the Delaware basin development plan, observed that the uplands to be included in the recreation area around Tocks Island reservoir could also host new electric power development:

Physical features in the vicinity of the Tocks Island site...are uniquely adaptable for development of pumped-storage hydroelectric facilities in addition to general of power at the mainstem dam itself. Analyses of incremental benefits and costs for such pumped-storage facilities are said to indicate that development will probably be feasible as either a Federal or non-Federal development.<sup>10</sup>

Congress and the Interior Department Anticipated that the Recreation Area Would Co-Exist with the Applicants' Transmission Line

Congress and the Interior Department knew that DEWA would have to be managed with all the new roads, utilities, conveniences and other infrastructure needed for mass recreation. Congress gave the Executive Branch unambiguous power to condemn all private property needed to fulfill the recreation and other purposes of the recreation area, including the Applicants' lands. Not only did the federal government never condemn the Applicants' lands, the agencies anticipated that the Applicants' transmission line would remain in place and co-exist with the recreation area and other project features and purposes. The Interior Department and the Corps of Engineers specifically planned for the line to remain in place once the recreation area was established, and Congress authorized NPS jurisdiction over the recreation area accordingly.

Congress was informed by the Corps of Engineers and Interior Department that the Applicants' transmission line and corridor would remain in place and continue to be in utility service after the recreation area was established and developed for public use. The following images are taken from the *Chief's Report*, on which Congress authorized the Tocks Island Dam and Reservoir Project. As noted above, the NPS authored the *Chief's Report* section on recreation, and the *Chief's Report* includes a strong, detailed statement of support by the Interior. The images, which are details drawn from Plate 12, page 394 of the *Chief's Report*, show distinctly the new recreation area, the new dam and reservoir, and the Applicants' transmission line:

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mass use." *Chief's Report*, Vol. IV, Appendix I, Page 111. According to the NPS, the Tocks Island area perfectly fits the bill. The NPS states: "The proposed project will be suitable for a wide variety of nonurban recreation activities providing sufficient land is acquired and made available for public use. The 11,100 acres of recreation water will certainly attract tremendous boating activity, and associated with boating will be fishing, water skiing and related water sports. Picnicking, camping, and swimming will unquestionably be popular activities also. The scenic qualities of the area will attract numerous visitors, and the development of scenic drives, parking overlooks, and interpretive trails will provide a broader base for this important aspect of recreation use. A demand for organized group camping should be anticipated and provided for in the plan of development. On lands not suited for mass public use, rental vacation cottages could be developed." *Chief's Report*, Vol. IV, Appendix I, Page 130.

<sup>10</sup> *Chief's Report*, Letter from Stewart L. Udall, Secretary of the Interior, to Lt. Gen. W. K. Wilson, Jr. Chief of Engineers, Department of the Army (March 26, 1962).

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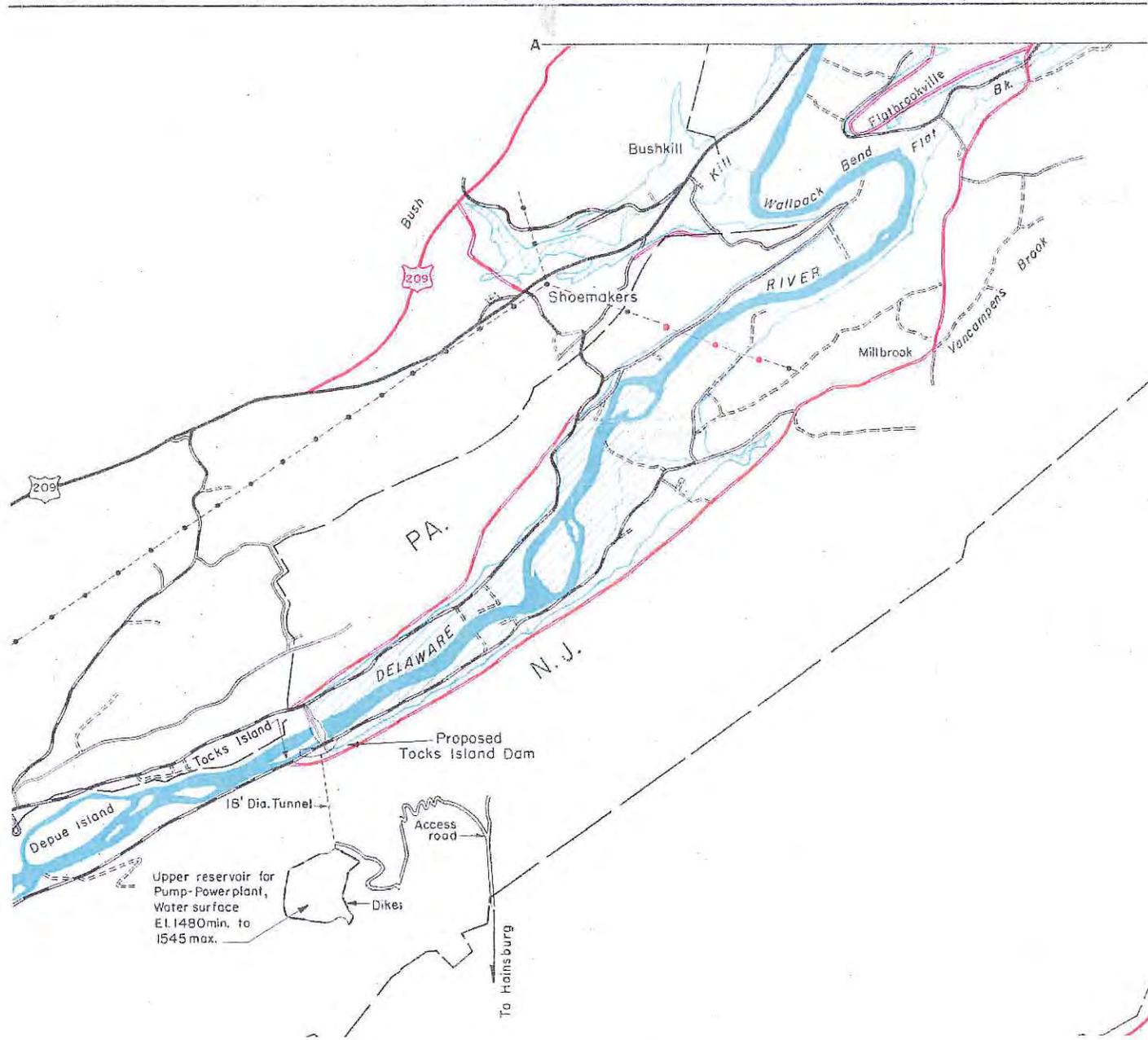




PLATE 12

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The images above, conveyed in a report co-authored and endorsed by the Interior Department, were relied upon by Congress in authorizing the Tocks Island Dam and Reservoir project. The Applicants' transmission line is shown crossing the Delaware River in the same place it does today, represented by a line comprised of a repeating series of dashes and dots. "Land Acquisition for Recreation Area" is shown with a line comprised of long, black dashes. The area that was planned for the recreation area is essentially the same area now known as DEWA.

The Applicants' transmission line is shown co-existing with the federal project, within the upland and flooded areas of the proposed recreation area. The segment of the Applicants' line that crosses the proposed reservoir pool is shown in red ink. The segments to the east and west outside the reservoir pool are shown in black. Per the image's legend, the black ink is for "Existing Power Line" and the red is for "Proposed Rebuilt Power Line."

The Corps of Engineers, in furtherance of both its plan for the new dam, and the Interior Department, in furtherance of its vision for the recreation area, illustrated for Congress their joint plan that the Applicants' line would remain in the same corridor. The term "rebuilt" is not defined in the *Chief's Report*, but the drawing and legend shown in the image specifically distinguish between "rebuilt" infrastructure and "relocated" infrastructure. The inference is clear: the term "rebuilt," as used in the *Chief's Report* drawing, meant that towers and conductors would be elevated above the new reservoir so they could continue to operate.<sup>11</sup> The term "rebuilt" could not have meant "relocated" or "removed," because the line is shown staying in the same place, crossing the river and the recreation area, as it does today. The existing line is also shown crossing the bay of the future reservoir in the Bushkill area. The planners anticipated that line, shown in black ink, would not need to be rebuilt to cross that portion of the new reservoir.<sup>12</sup>

The Corps of Engineers *Chief's Report* informed Congress that Tocks Island Dam and Reservoir would:

necessitate the relocation of 27 miles of Federal Highway 209 as well as county roads, local roads, the community of Bushkill, Pennsylvania,

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<sup>11</sup> Tocks Island Reservoir, with a planned maximum elevation of 428 feet above sea level, would have inundated the conductors crossing the Delaware River and the tower that stands immediately east of the Delaware River in New Jersey. The lowest part of the conductor span crossing the river is approximately 406 feet above sea level, and the bottom of the first tower in New Jersey is at 348.5 feet above sea level.

<sup>12</sup> Testifying before the Senate Subcommittee on Parks and Recreation in 1965, the NPS regional director explained that the area around Bushkill Creek, to be called the "Poxono Area" once flooded, "is expected to become the principal recreation site on the Pennsylvania side, with important boating developments around the Bushkill Bay, extensive beach and picnic developments and attractive wooded sites for family camping, nature study, and scenic enjoyment. The Poxono Area alone will accommodate over one million visitors a year." *Tocks Island National Recreation Area, Hearing on S. 36, H.R. 89 Before the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs of the United States Senate* 41-42 (1965).

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parts of Dingmans Ferry, Pennsylvania, and a few buildings at Milford Pennsylvania .... The bridge on U.S. Route 6 to Tri-State New York, would be replaced. No railroad relocations will be required and there are no commercially valuable mineral deposits in the reservoir areas. A total of 62,370 acres of land will be acquired for the complete development. In addition to the 14,800 acres required for construction of the project, 9,500 acres would be required for directly related recreation and 38,070 acres for indirectly related recreation.<sup>13</sup>

There was never any suggestion by the Interior Department or the Corps of Engineers that the Applicants' line would be moved or would not continue to operate in the same place it does today. Coexistence of the Applicants' line with the recreation area has been part of the plan approved by Congress since day one.

Key members of Congress not only were presented with the *Chief's Report* and its images of the Applicants' line, but they saw for themselves the areas shown in the *Chief's Report*, including in all probability the transmission corridor and line. The House and Senate Committees with authority over the Interior Department conducted an extensive process of hearings during 1964 and 1965 on the proposal to establish NPS jurisdiction over a national recreation area surrounding the reservoir to be created by Tocks Island Dam.<sup>14</sup> The chairman and members of the House Committee on Interior and Insular Affairs visited the site of the

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<sup>13</sup> *Chief's Report*, Vol 1, pp 99-100. The *Chief's Report* also describes the electric utility infrastructure and operations in the area:

The Tocks Island Project is located on the main stem of the Delaware River about 6-1/2 miles above the Delaware Water Gap. The project site lies in the service area of the General Public Utilities Integrated System consisting of four subsidiaries (two each in Pennsylvania and New Jersey) operating as a single system. In turn, GPU is a member for the well-known Pennsylvania-New Jersey-Maryland Interconnection. This large power pool is comprised of the following eight utilities: Public Service Electric and Gas Company ... Pennsylvania Power and Light Company ....

*Chief's Report* Vol. III, page F-9-10. The *Chief's Report* notes that construction of the Tocks Island Dam's hydropower facilities would require new transmission lines: "The firm and non-firm output of Tocks Island would require a double circuit, wood-pole 115-kv line about 25 miles in length ...." *Chief's Report*, Vol. III, F-37.

<sup>14</sup> *Tocks Island National Recreation Area: Hearing on S. 606 Before the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs of the United States Senate*, 88<sup>th</sup> Cong. (1964) ("1964 Senate Committee Hearing"); *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the Subcommittee on National Parks and Outdoor Recreation of the Committee on Interior and Insular Affairs of the House of Representatives*, 88<sup>th</sup> Cong. (1964) ("1964 House Committee Hearing"); *Tocks Island National Recreation Area, Hearing on S. 36, H.R. 89 Before the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs of the United States Senate* (1965) ("1965 Senate Committee Hearing"); *Tocks Island National Recreation Area, Hearing before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs of the House of Representatives on H.R. 89 and Related Bills*, 89<sup>th</sup> Cong. 125 (1965) ("1965 House Committee Hearing").

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proposed recreation area.<sup>15</sup> The chairman and several members of the Senate Subcommittee on Parks conducted an aerial tour of the area in a helicopter.<sup>16</sup> Congressman Morris K. Udall performed his own inspection in a “light” aircraft.<sup>17</sup> Interior Department and NPS officials, and members of the area’s House and Senate delegations served as guides during the overflights and ground tours.<sup>18</sup>

The following images show what the Senators and Congressmen (and agency officials) would have seen from the air. These aerial photos from the late 1950’s and mid-1960’s show the Applicants’ corridor where it crosses the Delaware River. These photos show, from high elevation, what legislators and others would have seen close-up at the time when Congress was deciding how the federal government should manage the lands now part of DEWA:

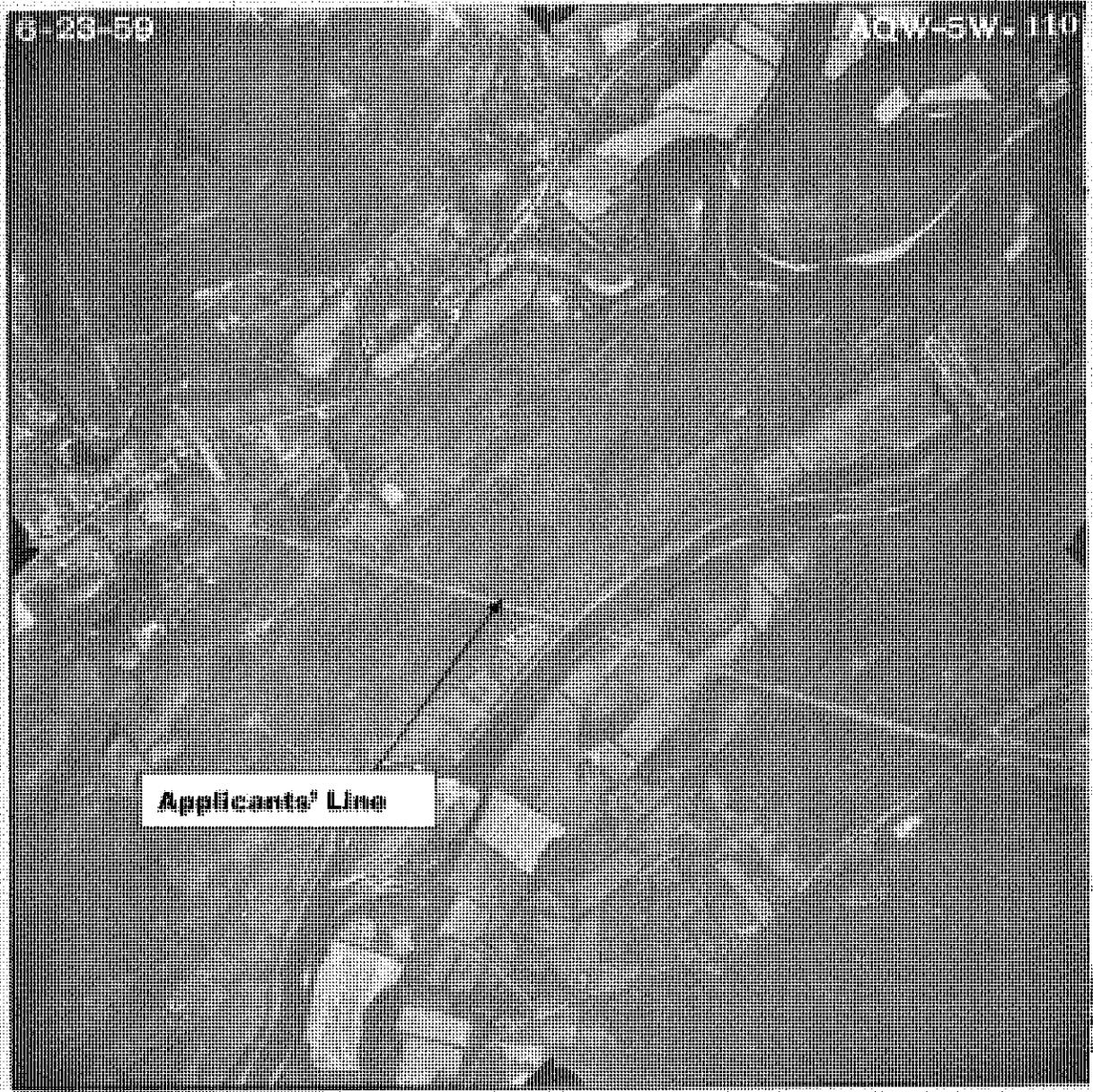
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<sup>15</sup> *Hearing before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs of the House of Representatives on H.R. 89 and Related Bills*, 89<sup>th</sup> Cong. (1965).

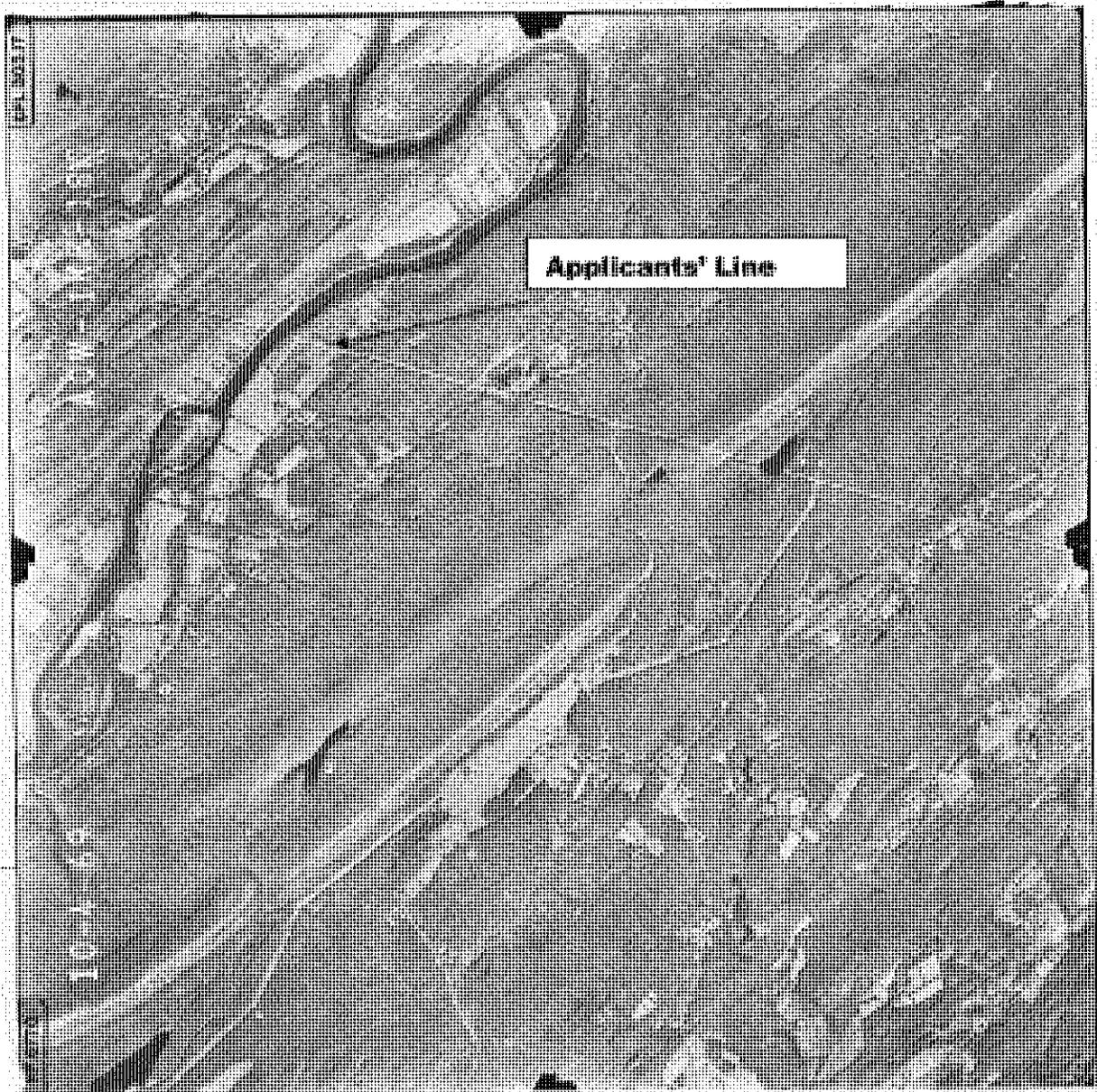
<sup>16</sup> *Tocks Island National Recreation Area: Hearing on S. 36 and H.R. 89 Before the S. Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs*, 89<sup>th</sup> Cong. 6 (1965) (“The Chairman and one or two members of the Subcommittee flew over the region not too long ago in a helicopter with me and I think you know full well what the area is like without my telling you....” Statement of Sen. Joseph Clark).

<sup>17</sup> *Hearing before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs of the House of Representatives on H.R. 89 and Related Bills*, 89<sup>th</sup> Cong. 21 (1965) (“I had the pleasure of visiting Stroudsburg last summer, and flew over this area early one morning in a light plane; I was quite impressed with the potential it has. I think this will be one of the finest additions to our recreation resources that the Congress has ever approved and I would hope that we could pass this legislation before the air conditioners get too much of a workout here this summer.” Statement of Rep. Udall)

<sup>18</sup> *Tocks Island National Recreation Area: Hearing on S. 36 and H.R. 89 Before the S. Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs*, 89<sup>th</sup> Cong. 35 (1965).



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Congress and the relevant agencies knew that the new recreation area would include uses such as the Applicants' transmission line, and they explored how the NPS would approach management of the area, with its multiple uses. Congress and the Interior Department specifically discussed how the NPS would manage an area that was intended to be different from a traditional national park.

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Testifying before the Subcommittee on National Parks and Outdoor Recreation of the House of Representative's Committee on Interior and Insular Affairs in support of the legislation to give the NPS authority to manage the area around Tocks Island Dam and Reservoir as "national recreation area," Secretary of the Interior Stewart Udall was questioned by Committee Chairman Wayne Aspinall about the land and resource management authorities that would be granted to the Department under the proposed legislation:

Mr. Aspinall. Mr. Secretary, this is not to be part of the National Park system, is it? Let us get this in its proper category.

Secretary Udall. My concept of what we have been doing, Mr. Chairman is this: I don't think it would be accurate to say this is a National Park in the sense we have 32 National Parks, nor is it a national monument. This is a national recreation area, a national seashore. These are two relatively new categories that this Committee has developed, and we have developed working together, and this will be administered by the National Park Service. It will be part of the National Park system in the broad sense of the term but it is not a national park in the sense that we have, as I say, 32 national parks.

Mr. Aspinall. And you will not administer it as a national park?

Secretary Udall. That is further clarification I should make. The National Parks themselves, the true national parks, are administered according to a very high set of standards. We have a different set of standards for National Seashores and National Recreation Areas.

Mr. Aspinall. This is the first of these particular areas of this class which have come to us with the exception of the Whiskytown National Recreation Area; is that right?

Secretary Udall. And the Lake Mead proposal would be somewhat similar.

Mr. Aspinall. Yes, which is an outgrowth of the old Hoover Dam project. That is a similar proposal.

Secretary Udall. That is right.

Mr. Aspinall. That proposal was already established. At the time it was established there was no idea of a National Recreation Area as such.

I think everyone who is interested in this should know that this particular legislation, together with Whiskytown, has an extra load to carry because we are attempting to set up a recreational area as such which will not be as sacrosanct in many respects as a national park area. ...

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Mr. Udall. That is right, sir.<sup>19</sup>

The NPS repeatedly testified to Congress that the recreation area would be intensively developed for as many as 10 million visitors a year, with new facilities able to host more than 123,000 visitors a day. It was not to be an ecological preserve, but a component of a multi-purpose water resource project, integrated with the project itself and the surrounding communities and developments.

The NPS offered an expansive, permissive vision of future development in the recreation area. For example, in April 1965, Ronald F. Lee, the park service's Regional Director, assured Congress that the new area would be managed in a way that accommodated a range of uses:

During the preparation of this master plan, careful and systematic exchange of information would be maintained with all appropriate public officials and with the planning boards and surrounding political subdivisions, counties and States so that insofar as possible, mutually satisfactory decision can be reached on such questions as precise boundary locations, access roads, and utilities. It would be the objective of the National Park Service to integrate the planning for the national recreation area into the planning for the surrounding region so as to minimize the creation of problems and to realize fully the potential benefits of this magnificent project for the region and for the Nation as a whole.<sup>20</sup>

During the same hearing, the NPS and Corps of Engineers carefully enumerated the specific types and number of private parcels and ownerships that would need to be acquired by the federal government to fulfill the purposes of the new area. At no point did any witness suggest that any utility facilities or easements would need to be acquired, although 4000 tracts, including "50 farms, 60 commercial establishments, 35 summer camps and 900 single-family dwellings" in the area to be flooded and "in the uplands" would need to be taken,<sup>21</sup> including one florist, two gun stores, a concrete block plant, and four auto repair garages.<sup>22</sup>

The NPS was probed during a hearing before the Senate Subcommittee on Public Lands for information about its land acquisition activities, specifically certain senators' concerns about the potential for unnecessary "takings" of private property, including golf courses, homes,

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<sup>19</sup> *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor Recreation of the Committee on Interior and Insular Affairs, 88<sup>th</sup> Cong. 25-27 (1964) (statement of Sec. of the Interior Stuart L. Udall).*

<sup>20</sup> *Hearing before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs of the House of Representatives on H.R. 89 and Related Bills, 89<sup>th</sup> Cong. 125 (1965) (statement of Ronald F. Lee, Regional Director, National Park Service).*

<sup>21</sup> *Id.* at 6, 20.

<sup>22</sup> *Id.* at 76.

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churches and other human-made structures and ownerships. The NPS witness, again Regional Director Ronald F. Lee, said “the authority here is general enough that we are still in the acquisition of the land including, and I refer particularly to subsection C, of Section 3, there is authority under which you could leave or allow property to continue if the existing use was consistent with the purposes of this act.”<sup>23</sup>

There was no confusion in the conservation and progressive community of the era.<sup>24</sup> The new recreation area was to be something different for the area and the NPS. These statements submitted to House Committee on Interior and Insular Affairs in support of the Tocks Island Dam National Recreation Area legislation are typical:

- “The Appalachian Mountain Club has, during its entire history, been interested in preservation of the wilderness areas and in the preservation and maintenance of hiking trails as well as camping areas. We believe that the development of a Tocks Island National Recreation Area under National Park Services [stet] would assure a well-maintained mass recreation area providing swimming and boating, fishing, camping, hiking and other recreational facilities.”<sup>25</sup>
- “Urge affirmative and quick action on bills authorizing creation of Tocks Island National Recreation Area need of space for outdoor activities critical in this area rapidly being used for real estate developments. Request this be included as part of hearings on bills.”<sup>26</sup>
- “We respectfully urge your Committee to do their utmost for passage of legislation that will create a Tocks Island Area compatible with the scenic values of the region while satisfying the needs for recreation, flood control and power.”<sup>27</sup>

<sup>23</sup> *Tocks Island National Recreation Area: Hearing on S. 606 Before the S. Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, 88<sup>th</sup> Cong. 66 (1964)* (statement of Ronald F. Lee, Regional Director, National Park Service).

<sup>24</sup> “[E]nvironmental groups seemed favorably disposed toward the (Tocks Island) project because they saw it as an alternative to the growing commercial development of the area. The dam and associated recreation area were perceived as a way to prevent the kind of unpleasant sprawl and destruction that have taken place in the nearby Pocono Mountains area.” Irene Travis-Thomson, “The Tocks Island Dam Controversy,” in *When Values Conflict, Essays on Environmental Analysis, Discourse and Decision*, edited by Laurence H. Tribe, Corinne S. Schelling and John Voss (1976), p. 40

<sup>25</sup> *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor Recreation of the Committee on Interior and Insular Affairs, 88<sup>th</sup> Cong. 320 (1964)* (Letter from Richard V. Zug, Chairman, Conservation Committee, Delaware Valley Chapter, Appalachian Mountain Club). [Note that this letter, and the other letters from this hearing report, are attachments to the report; therefore, the page numbers cited herein reflect the page on which the letter is found in the PDF version of the report and not the original report’s pagination.]

<sup>26</sup> *Id.* at 314 (Telegram from Harry F. Nees, Conservation Chairman, Atlantic Chapter Sierra Club).

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- “Creation of a greatly needed national recreation area in the east can surely be considered a counterpart to a great national park of the west. Though different in character, each fulfills certain national needs and makes maximum use of the respective land, water and other resources involved.”<sup>28</sup>
- “The Tocks Island proposal would join the objectives of a major flood control project and a major national recreation area in a coordinated effort to achieve maximum compatibility.”<sup>29</sup>

Congress’s decision to grant the NPS authority to manage the new recreation area can be most fully understood in reference to the policy environment in which Congress acted. The record presented by the House and Senate hearings reveals at least three major threads of policy and politics weaving together to support creation of the new recreation area. The Kennedy and Johnson Administrations, educators, urban leaders, and civic welfare organization envisioned the area as a naturalistic playground for urban families, and particularly the underprivileged children of the East’s major cities, to get away from their usual circumstances to enjoy water-based recreation and wholesome outdoor play.<sup>30</sup> Some witnesses emphasized their hope that the area would serve as a then-rare racially unsegregated vacation area.<sup>31</sup>

<sup>27</sup> *Id.* at 344 (Letter from Jacques C. Boutinon Chairman, Conservation Committee, N.Y. Chapter of the Adirondack Mountain Club).

<sup>28</sup> *Id.* at 360 (Letter from Walter M. Phillips, Chairman, Americans for Democratic Action, Southeastern Pennsylvania Chapter).

<sup>29</sup> *Id.* at 401 (Letter from J. W. Penfold, Conservation Director, Izaak Walton League of America).

<sup>30</sup> “[The] President’s program for a Great Society can well be served by establishing this fine recreational area for the crowded East. Many children and youth, who are our chief concern, and who belong to the poverty groups in need of a fuller life will benefit from this great national park.” *Hearing on H.R. 89 and Related Bills Before the Subcommittee on National Parks and Recreation for the Committee on Interior and Insular Affairs of the House of Representatives*, 89<sup>th</sup> Cong. 104-105 (1965) (statement of Mrs. Arthur L. Davis, President, New Jersey Congress of Parents & Teachers).

<sup>31</sup> Mr. H.J. Caldwell of the Human Relations Council of West Essex, New Jersey wrote to the House Committee on June 3, 1964 to communicate his organization’s:

vigorous support of the proposed Tocks Island National Recreation Area ....

This area ... would be of enormous value as a place of outdoor recreation for the most heavily populated section of the entire country .... If the government does not take over the area surrounding the reservoir, we can see, as the dismal and inevitable alternative, a commercial mess of hot dog stands, honky tonks, dubious taverns and cheap motels. Because of its special interest in the welfare of the American Negro, the Human Relations Council should particularly like to see this project go through. Here would be provided fishing, swimming, picnicking and cabins for weekending, all at most reasonable rates and all without any danger whatever of segregation or discrimination. It is perhaps not generally realized what a problem our Negroes have for their summer outings.

*To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor Recreation*, 88<sup>th</sup> Cong. 316 (1964).

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These and other witnesses also spoke to their concern that, if the reservoir were to be created without federal ownership of the surrounding lands, the relatively rural area would be overtaken with tourism-related developments such as motels, bars and stores. The federal recreation area was seen as a tool to forestall the types of commercial strip developments then common along the New Jersey shore and elsewhere in the East.

Above all, the proposal to bring the federal government in as a land manager was seen as a major step to implement the recommendations of President Kennedy's Outdoor Recreation Resources Review Commission ("ORRRC"). The Commission was Chaired by Laurance Rockefeller, and overseen by a blue-ribbon board and advisory council of members of Congress (including Tocks Island recreation area advocate Rep. John Saylor, and the Chairman of the House Subcommittee on Parks, Rep. Ralph Rivers), cabinet secretaries, recreation and conservation leaders, business people, planners, and others, including Secretary of the Interior Stewart L. Udall and Horace M. Albright, one of the co-founders and second director of the NPS.

The Commission's 1962 report, *Outdoor Recreation for America*,<sup>32</sup> a landmark in the history of the Nation's public lands policy, documented a massive unmet need for recreational opportunities to serve an expanding post-World War II America.<sup>33</sup> The Commission called on Congress and the White House to commit to dramatic expansion of recreation resources across the country, especially near metropolitan areas (noting that "[m]uch of the West and virtually all of Alaska are of little use to most Americans looking for a place in the sun for their families on a weekend....")<sup>34</sup>, and especially water-based recreation ("[m]ost people seeking outdoor recreation want water, to sit by, to swim and fish in, to ski across, to dive under, and to run their boats over.")<sup>35</sup>

The Commission urged Congress to protect certain rivers in their free-flowing state,<sup>36</sup> enact legislation to preserve "certain primitive areas as 'wilderness areas'"<sup>37</sup> but the overwhelming majority of its recommendations emphasized the need for federal leadership to

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<sup>32</sup> Outdoor Recreation Resources Review Commission, *Outdoor Recreation for America: A Report to the President and to the Congress by the Outdoor Recreation Resources Review Commission* (1962) ("ORRRC Report").

<sup>33</sup> "Decade by decade, the expanding population has achieved more leisure time, more money to spend, and better travel facilities; and it has sought more and better opportunities to enjoy the outdoors. But the public has also demanded more of other things. In the years following World War II, this process greatly accelerated as an eager Nation, released from wartime restrictions, needed millions of new acres for subdivisions, industrial sites, highways, schools and airports. The resources for outdoor recreation--shoreline, green acres, open space, and unpolluted waters--diminished in the face of demands for more of everything else." *ORRRC Report* at 1.

<sup>34</sup> *Id.* at 3-4.

<sup>35</sup> *Id.* at 4, 173.

<sup>36</sup> *Id.* at 8.

<sup>37</sup> *Id.*

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acquire open lands, especially land with swimmable water bodies, for outdoor play and relaxation by large numbers of vacationing urban dwellers.<sup>38</sup>

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<sup>38</sup> The Commission proposed a multi-tiered classification system for recreation lands. The most intensively developed areas, such as the Atlantic City beaches, would comprise Class I areas; undeveloped wilderness areas would be designated Class V. Areas like the Tocks Island reservoir would fit in the Commission's Class II -- General Outdoor Recreation Areas.

"Class II areas provide a wider range of opportunities than Class I sites and usually involve more extensive, less crowded use. Their special feature is the ability through development of facilities to sustain a large and varied amount of activity, such as camping, picnicking, fishing, water sports, nature walks, and outdoor games. ... Included are portions of public parks and forests, public and commercial camping sites, picnic grounds, trailer parks, ski areas, resorts, streams, lakes, coastal areas, and hunting preserves. ... Class II areas encompass a wide variety of physical resources that have been or can be developed and managed to provide a diversity of recreation experiences. One of their distinctive characteristics is that they are always equipped with some man-made facilities, which may vary from the simple to the elaborate. ... At lakes, reservoirs, and seashores, there may be well-equipped marinas, which provide not only boats but gear for fishing, scindiving, and water skiing. Summer homes may be shacks or palaces. Hunting preserves may provide lodges for their members and guests. Dude ranches and luxury hotels may provide more than the comforts of home. The wide variety of activities and facilities characteristic of general outdoor recreation areas (Class II) requires that management objectives be stated in very broad terms. Many factors, particularly the nature of the resources and the prospective demand, must be taken into consideration in determining for what purposes these areas will be used and how intensively they will be developed. ... Class II areas can frequently be established on portions of municipal water supply lakes and reservoirs; Federal, State and industrial reservoir areas; and many streams and lakes. In most cases, their recreation potential has not been fully realized. ... Outdoor recreation planning should be included in preliminary highway design and location, water resource developments, general urban expansion, and other land and water uses." *ORRRC Report* at 105

The Commission had areas like Tocks Island reservoir in mind when it recommended that "General outdoor recreation areas (Class II) should be carefully planned for and developed at Federal reservoirs. Too often Federal reservoir shorelines are characterized by aimless, unplanned developments, which result in cluttered and unattractive conditions ...." *ORRRC Report* at 130. Class III areas would include forest areas used for logging and other resource extraction activity, but which could incorporate recreation focused on enjoyment of the natural environment. The Commission cited "portions of the Allagash country of northern Maine and cutover areas in the northern Lake States" as belonging in this category. *ORRRC Report* at 107. Class IV would consist of "individual areas of remarkable natural wonder, high scenic splendor, or scientific important. More than one such area may be included in a single large administrative unit, such as a national park or forest. ... They range from large areas within Yosemite Valley and the Grand Canyon to smaller sites such as Old Faithful ...." *ORRRC Report* at 109.

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The ORRRC offered specific advice and encouragement regarding the inherent compatibility of electric transmission infrastructure and public recreation lands, and the desirability of co-location: “Rights-of-way for high-tension transmission lines ... are too often considered a necessary ‘eyesore,’ and the swath they cut through an area is frequently a non-man’s land littered with refuse. They can be put to work. Given public action, at a very small cost, the land could be used for recreation ....”<sup>39</sup>

The *ORRRC Report* discussed extensively the importance of recreation development at new federal reservoirs.<sup>40</sup> The ORRRC endorsed the Delaware River Basin compact and Commission as “[p]erhaps the most outstanding case of interstate action with respect to resource development and outdoor recreation. ... Here four States, Delaware, New Jersey, New York, and Pennsylvania, and the Federal Government are partners in the river basin planning project, which will include recreation among its major purposes.”<sup>41</sup>

The Interior Department’s Recreation Advisory Council responded to the *ORRRC Report* by in March 1962 by issuing the *Federal Executive Branch Policy Governing the Selection, Establishment, and Administration of National Recreation Areas*.<sup>42</sup> The agency’s policy document found that “Present Federal programs should be augmented by a system of National Recreation Areas made up of a limited number of areas where recreation demand is not being met through other programs.” The Department’s guidance states that:

The system of National Recreation Areas should:

1. Provide for Federal investment in outdoor recreation that is more clearly responsive to recreation demand than other investments that are based primarily upon consideration of preserving unique natural or historical resources, the need to develop and conserve public lands and forests, or the requirements of major water resource development undertakings;
2. Be areas which have natural endowments that are well above the ordinary in quality and recreation appeal, being of lesser significance than the unique scenic and historic elements of the National Park System, but affording a quality of recreation experience which transcends that normally associated with areas provided by State and local governments;

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<sup>39</sup> *ORRRC Report* at 149.

<sup>40</sup> See, e.g. *ORRRC Report* at 181: “Outdoor recreation should be considered as an important purpose of Federal multipurpose water resource developments, and thus guaranteed full consideration in the planning, design, construction, and operation of projects.”

<sup>41</sup> *ORRRC Report* at 142.

<sup>42</sup> *Federal Executive Branch Policy Governing the Selection, Establishment, and Administration of National Recreation Areas, Circular No. 1*, March 26, 1963.

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3. Be consistent with Federal programs relating to national parks, national forests, public lands, fish and wildlife, water resource development, grants for urban open space, recreation programs on private agricultural lands, and programs for financial assistance to States in providing recreation opportunity.<sup>43</sup>

Congress had approved the Tocks Island Dam project in 1962 with a substantial zone above the high-water line set aside for federal ownership and potential recreational use, all under the control of the Corps of Engineers. The *ORRRC Report*, released in the same year, called for creation of new, large federal recreation areas in exactly the type of circumstances presented by Tocks Island Dam and Reservoir -- rural land, surrounding a federal reservoir, near major metropolitan areas, and within an easy day's drive on the nation's new growing network of interstate highways. In the case of Tocks Island, two new interstates, I-84 and I-80, were then under construction and, when completed, would readily carry recreationists directly into the area.

Bills to authorize what is now DEWA were first introduced in 1963, then again the following year. They received extensive hearings in 1964 and 1965, at all points drawing strong support from the Kennedy and Johnston administrations, local members of Congress and others.<sup>44</sup> Testifying in support of the national recreation area legislation, Secretary Udall drew a

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<sup>43</sup> *Id.* 1.

<sup>44</sup> There were a few dissenting voices from local landowners opposed to the proposed new federal presence in the area. These statements from the 1964 House hearings are representative of the opposition to the proposed federal recreation area: "True existing recreational plans of property owners, homesteaders and sportsmen will be destroyed without replacement by masses of city visitors roaming the vast acreage which cannot be patrolled." *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor Recreation*, 88<sup>th</sup> Cong. 324 (1964) (Letter from Charles Koons, Sandyston Community Club Inc.) "In many cases, the man who has shown foresight, ambition and resourcefulness in choosing the country life is eventually penalized by removal to provide a part-time playground for his city friend who chose the city life. If more open space for recreation is essential, the first approach should be the possibility of asking the private property owners to provide same and operate the same type public attraction as is planned by the bills in question. Given a choice between private development or government condemnation, the prescribed areas would rally to the need. [T]he point is: How much land can the State and Federal Governments claim within the framework of a democratic form of government? [T]here is more at stake here today than government approval or disapproval providing additional lands for public recreation. There is the choice between calling a halt to the removal of vast areas of private lands from private ownership when recreation, public or private, could very well be provided by the present landowners....The other choice is to approve this program, thereby penalizing the Americans who for hundreds of years have shown the foresight to maintain the value and beauty, to preserve the scenic, scientific and historic features of the area in question." *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor*

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specific, clear link to the *ORRRC Report* and his Department's policies to implement the report, explaining:

For the reasons just stated, the proposed Tocks Island National Recreation Area measures up fully to the criteria for such areas set forth in Policy Circular No. 1 adopted by the Recreation Advisory Council on March 26, 1963. The area would help fulfill the need for outdoor recreation opportunities close to urban areas, a need emphasized in the report of the Outdoor Recreation Resources Review Commission. The Delaware Rive Basin Commission...takes the view that the recreation facilities associated with the multi-purpose Tocks Island Reservoir project could be administered most effectively by the Federal Government through the National Park Service.<sup>45</sup>

The legislation ultimately enacted by Congress in 1965 built on the *ORRRC Report* and the previous authority granted to the Corps to acquire all the project area lands by designating the area as a "national recreation area," placing the NPS in charge the recreation area, and authorizing funding to acquire, develop and administer the lands.

Over the following years, Congress appropriated funds to acquire the lands now comprising DEWA.<sup>46</sup> For budget, environmental and other reasons, Congress never appropriated funds to start construction of Tocks Island Dam. The dam was deauthorized in 1992. When Congress deauthorized the dam, the Corps of Engineers lost authority, but the Secretary of the Interior retained all the discretion granted by the 1965 law establishing the national recreation area.<sup>47</sup> The recreation area and the Applicants' power line had co-existed for

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*Recreation*, 88<sup>th</sup> Cong. 279-285 (1964) (Statement by Mrs. Nancy Shukaitis, East Stroudsburg, Pennsylvania).

<sup>45</sup> *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor Recreation of the Committee on Interior and Insular Affairs, 88<sup>th</sup> Cong. 4-5 (1964) (statement of Sec. of the Interior Stuart L. Udall).*

<sup>46</sup> See, Richard C. Albert, *Damming the Delaware: The Rise and Fall of Tocks Island Dam* 176 (2<sup>nd</sup> ed. 1987); Kathleen Duca-Sandberg, *The History and Demise of the Tocks Island Dam Project: Environmental war or the War in Vietnam* 5 (2011) (<http://scholarship.shu.edu/dissertations/30>) ("The Tocks Island Dam project's final demise has been viewed as a victory for environmentalists, but this project was actually doomed much earlier when President Johnson needed money to simultaneously fight the War in Vietnam and push through his Great Society legislation. As early as 1967, *Erne Magazine* criticized the dam's costs, but it was a lucrative pork barrel project and lingered. Cost increases and budget cuts due to the war delayed the project which got tangled in later environmental legislation. My thesis demonstrates that a lack of funding in the late 1960s handed the growing environmental movement a later victory in the 1970s.").

<sup>47</sup> "Park records show 10,000 properties, many belonging to generations of families as far back as the colonial period, were bought or condemned. More than 3,000 homes occupied by 8,000 people were razed, 25 summer camps, 125 farms and more than 100 businesses, seven churches and three schools were all demolished or abandoned. Since then, many historic landmarks on both the New Jersey and Pennsylvania sides of the river that managed to survive have languished under the care of the NPS because of a lack of funding for maintenance and restoration. In 2003 the Park Service encouraged former residents, who were displaced when the park was created,

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more than a quarter century by the time Congress deauthorized the dam. They have co-existed now for almost a half-century, each operating to meet important public needs. Visitation to the recreation area has flourished. The Secretary has used the authority granted by Congress to accommodate a mixture of uses in the area, and to co-exist with the state, local and private interests that Congress expected to remain after arrival of federal land managers.

The general philosophy guiding park and other public land management decisions has evolved with the times. But the law that established the recreation area still sets the rules for NPS management. The law is a product of decisions made by Congress in 1965. Congress gave the NPS responsibility for management of a landscape that was characterized by the Interior Department as having “natural endowments that are well above the ordinary in quality and recreation appeal, being of lesser significance than the unique scenic and historic elements of the National Park System, but affording a quality of recreation experience which transcends that normally associated with areas provided by State and local governments.”<sup>48</sup> Congress was assured that management of the area would be appropriate for the area: “The National Parks themselves, the true national parks, are administered according to a very high set of standards. We have a different set of standards for National Seashores and National Recreation Areas.”<sup>49</sup>

Some of the statements made at the time seem anachronistic today, but the law is not an anachronism and the meaning given to it by Congress cannot be read out of it, nor can meanings not intended by Congress be read into it. The question presented by the Applicants’ request for NPS approvals related to rebuilding the existing B-K line, and constructing the S-R line in the existing corridor is not simply whether the requested approvals would authorize actions that may have impacts on NPS resources. The question is whether Congress gave the Secretary lawful authority to decide that the recreation area can fulfill the purposes authorized by Congress notwithstanding the potential impacts of the Applicants’ existing and proposed project. The answer is unequivocally “Yes”.

Congress knew that the area would include with a complex set of then-existing and anticipated future developmental uses, including the Applicants’ transmission line. And Congress gave the NPS very broad discretion to manage the area for those diverse uses:

[T]he Secretary of the Interior may utilize such statutory authorities relating to areas of the national park system and such statutory authorities otherwise available to him for the conservation, management,

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to come back to live and refurbish their own homes and pay rent.” Duca-Sandbert, *The History and Demise of Tocks Island Dam Project* at 2.

<sup>48</sup> *Federal Executive Branch Policy Governing the Selection, Establishment, and Administration of National Recreation Areas, Circular No. 1*, March 26, 1963.

<sup>49</sup> *To Authorize Establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for Other Purposes: Hearing on H.R. 2441, H.R. 2632, H.R. 8696 Before the H. Subcommittee on National Parks and Outdoor Recreation of the Committee on Interior and Insular Affairs, 88<sup>th</sup> Cong. 26(1964)* (statement of Secretary of the Interior Stewart Udall).

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or disposal of vegetative, mineral, or fish or wildlife resources as he deems appropriate to carry out the purposes of this Act.<sup>50</sup>

The public should be fully informed that DEWA was not set aside as a wilderness preserve or for any single purpose. Congress knew the Applicants' line stood exactly where it stands today. Congress knew and intended that it would co-exist and function as a utility facility alongside the new recreation area. The NPS was authorized to manage the new recreation area alongside the existing transmission line.

The NPS's decision in this matter is not being written on a blank slate. The legislative history of the recreation area is fundamentally important to any analysis of the agency's decision-making authority. The Applicants' respectfully submit that the public would benefit from a more complete discussion of these matters in the DEIS.

3. Objectives (pp ii-iv): This section should be revised to disclose the geographic scope of consideration given to each objective, the reason for that choice of scope, and the relevance of the evaluation to the choice facing the decision-maker. It should be made clear whether the consideration of objectives is intended to mimic the geographic scope of the siting evaluations performed by the utility regulatory authorities in Pennsylvania and New Jersey, or if the scope is tied to resources and places under the NPS's jurisdiction.

The reader of the DEIS deserves a clear explanation whether the NPS is attempting to make a decision on the Applicants' permit applications as if NPS were a regional transmission grid planner, or if it is simply focused on how different alternatives impact those things under NPS jurisdiction. Are viewsheds inside the park units considered in the same way, and given the same weight in decision-making as viewsheds outside NPS lands that would be affected by the corridors proposed by the NPS? Does consideration of socioeconomic impacts include impacts experienced by power customers 50 miles from the NPS lands in the case of an outage caused by inadequate capacity in the existing transmission infrastructure? Various portions of the DEIS, especially those dedicated to evaluating routes other than the one proposed by the companies, seem to suggest that the DEIS is intended to inform a regional transmission planning decision. But other portions, such as the discussion of socioeconomic and health and safety, seems largely disinterested in the importance of the grid or reliable electric service to the mid-Atlantic region.

This DEIS gives every impression of incorporating two different analyses -- one purporting to make a choice about the way to build and operate the regional grid, and the other focused on management of NPS resources. The dual character of the DEIS leaves the reader unsure as to what decision, or decisions, the NPS is attempting to inform through the NEPA review. For the sake of those readers who wish to know what decision the NPS is proposing to make, the DEIS should be revised to explain fully any variations in the geographic scope of analysis as between the various objectives.

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<sup>50</sup> Pub. L. No. 89-158, § 4.

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4. Susquehanna to Roseland Transmission Line Location and Background (pp. 4-5):

This section references the Applicants' request for additional right-of-way. The discussion should be revised to disclose the dimensions of the existing transmission corridor where it crosses NPS lands and the amount of additional right-of-way requested by the Applicants. The text could leave the reader with the impression that the Applicants' are seeking to widen the entire corridor through NPS lands, while in fact Alternative 2 seeks only an approximate 4% increase in the ROW crossing the NPS Units and Alternative 2b seeks no additional right-of-way. The Applicants are seeking additional ROW equal to less than .007% of the area of DEWA.

This section offers a description of the physical features of the existing and proposed line. As presented, the description is incomplete. The text of this section should be amended to disclose the ownership and other beneficial interests held by the Applicants in the existing ROW where it crosses NPS lands. As described in Section I.C., the Applicants' easements over the NPS Units provide that the Applicants have rights for "constructing, reconstructing, operating, maintaining and inspecting one or more lines for transmitting electrical energy together with the poles, towers and conductors and all necessary appurtenances." The companies and the NPS are neighboring property owners; each with rights to manage their own ownership interests, subject to certain reciprocal rights against interference or harm.

The decision-maker and reader would benefit in their understanding of the relationship of the current corridor and line to the NPS if the DEIS were amended to disclose that a dispute between PPL and the NPS over the rights of the company to maintain the ROW was resolved when the United States agreed that the company's property interests in the ROW were such that the NPS would "not require [PPL], pursuant to its existing easement rights, to apply for and obtain a special use or other form of permit or approval or authorization from the [NPS] as a condition to accessing its easements located in [DEWA] for conducting vegetation management work...." A copy of the Stipulation of Order of Settlement U.S. District Court for the Middle District of Pennsylvania, Civil Action No. 3:10-CV-01670-ARC, is attached hereto as Exhibit 12.

The final two sentences of the second paragraph of this section are inaccurate and misleading and should be revised. There is no formal or informal regulatory status applicable to the current or proposed line that is anything like what is suggested by the text in this paragraph. The existing line crossing NPS lands is "critical" to the grid, and the existing corridor is critical to the line. The proposed S-R Line would be "critical" to the grid, too. The new line would not transform the "critical" nature of the corridor or the line.

To the extent that this part of the DEIS is intended to advise the reader that corridor and line maintenance practices may intensify in the future, the DEIS is on to something true, but it is entirely mistaken about the cause of the change. The fact is that the federal rules governing transmission corridor maintenance, promulgated by NERC and administered by FERC, have changed in recent years to be much more rigorous and prescriptive. Electric utilities everywhere,

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including the two Applicants, are revising their corridor management and line maintenance practices to meet the new standards. Those standards apply equally to vegetation management (i.e., tree clearing) and to upkeep and modernization of the wires, towers, foundations, and other hardware. The newly tightened rules apply to all factors influencing the reliability of transmission lines. The vegetation management and other maintenance practices that can be expected in the corridor in coming years will be governed by federal grid reliability rules, and not by any change in the “critical” nature of the line.

The second-to-last paragraph in this section, on page (v), should be revised for completeness. At a minimum, this paragraph should disclose that each state utility commission reached its decision to approve the S-R Project within their respective jurisdictions after extensive public hearings, detailed and comprehensive consideration of routing alternatives, development of extensive evidentiary records, and an opportunity for input from and participation by every potentially affected federal, state and regional resource management agency, including the NPS. The reader and decision-maker likely would benefit from knowing that the state siting authorities took into account the overall potential environmental, economic, reliability and other impacts associated with the proposed route, and weighed those impacts against the potential impacts of two other possible routes

The final clause of this one-sentence paragraph is true, but misleading. If the intent of the words is to offer the decision-maker and reader an understanding of the history of litigation around the state agency decisions to support the proposed line, an accurate and complete statement would be this: The NJBPU and PAPUC decisions have been challenged vigorously in state litigation by some of the same parties who have submitted comments to the NPS asking the agency to deny the Applicants’ permits. The plaintiffs have raised in state litigation many of the same issues they have raised in their comments to the NPS. In all instances where a court has rendered an opinion on the two states’ decisions, the agencies have been upheld. See the Commonwealth Court of Pennsylvania Order attached as Exhibit 13 upholding the decision of the PAPUC to approve construction of the S-R line. See the order attached as Exhibit 14 from the New Jersey Appellate Division denying the project opponents request to have the S-R Line decision remanded to the NJBPU.

## *II. ALTERNATIVE SPECIFIC COMMENTS*

Portions of the alternatives are presented and analyzed in a manner that fails to reveal or assess important, fundamental facts related to the Project and key assumptions by the NPS. The presentation of alternatives, if left uncorrected, will fail to inform properly the decision-maker and the public.

### **A. Alternative 1 – No Action**

The No-Action Alternative (Alternative 1) incorrectly describes the probable uses of the existing corridor and fails to describe or analyze the nature of the Applicants’ ownership interests

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and rights in the corridor. The effect of the analysis of Alternative 1 in the DEIS is to understate substantially the importance of the existing and future use of the corridor by the Applicants and the probable future condition of the line and corridor. The DEIS fails to acknowledge that the Applicants' legal rights to use the corridor and maintain the line in utility service exist independent of and are not subordinate to NPS discretion.

The DEIS suggests, incorrectly, that a choice by the NPS to disallow the Applicants' proposal would preserve the material features of the current line and corridor. The DEIS acknowledges that the line is more than 90 years old, but states that the Applicants have no plan to repair or replace it. A reader of the DEIS could easily infer from the description of Alternative 1 that, over time, the existing line might be allowed to degrade entirely into obsolescence and the corridor left undisturbed to revert to forest. The DEIS suggests that the result of a choice by the NPS to select Alternative 1 would be that the current set of aesthetic, environmental and other impacts from the line would continue or even decline over time. But that is not reality, and to suggest otherwise is to mislead the decision-maker and the public on a fundamental matter.

The corridor and the line in it today are, together, a vital feature of the regional transmission grid. They are not incidental. They are not feasible to replicate elsewhere. There is no reasonably foreseeable future in which the corridor is not essential to the line, and the line is not a critical part of the grid. There is no scenario under which the line and corridor would not need to be maintained in proper, up-to-date condition to meet contemporary needs and standards. The importance of these utility assets will, in fact, continue to grow over time, as the demand for electricity increases, and realistic options for new right-of-way construction narrow.

The Applicants' ROW rights are substantial legal rights, and include the right to replace the towers, foundations and conductors, clear vegetation threatening the lines or towers or roads, and otherwise take reasonable actions needed to keep the line in service (including the right to build, use and maintain access roads) and in compliance with all federal and other standards that govern electric transmission service. The NPS has a role in managing the impacts of these activities on NPS resources, but does not have authority or a legal right to disallow them. The United States could have acquired ownership rights when it acquired the many other private properties that today comprise DEWA and the APPA, but it did not do so and is thus subject to the terms of the easements just as any other landowner would be.

The Applicants' current plan to ensure that the line is maintained properly is to upgrade it as an integral part of the S-R Line. The inevitable consequence of a decision by the NPS to disallow the Applicants' proposal is that, instead of upgrading the existing line as part of the Project, the existing line would have to be upgraded.

The DEIS fails to make clear that the reasonably foreseeable future under Alternative 1 is one in which the Applicants maintain the right-of-way as required by federal reliability standards, operate the line, and replace or repair the towers, conductors, foundations and roads as

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needed to maintain reliability. Under Alternative 1, the line, the towers, the foundations and the roads would be upgraded to meet current standards and needs. The repair and replacement steps needed to bring the current 230 kV line up to contemporary standards would involve replacement of the existing towers with new monopoles in approximately the same locations as the existing towers and these new towers would range from 130 feet to 160 feet in height. Placement of these new towers would require new foundations and new conductors strung initially on one side of the new towers. Additionally, the Applicants would need to use new and existing access roads for construction purposes that are similar to the access roads that would be needed for Alternatives 2 or 2b. The DEIS should be revised to properly disclose and analyze these facts. Simply stated, the difference between Alternative 1 and Alternative 2 is very small, limited to an approximate 20-25 percent difference in tower height as between those needed to upgrade the existing line, and those needed for the proposed Project. Every other feature and associated impact would be essentially the same.

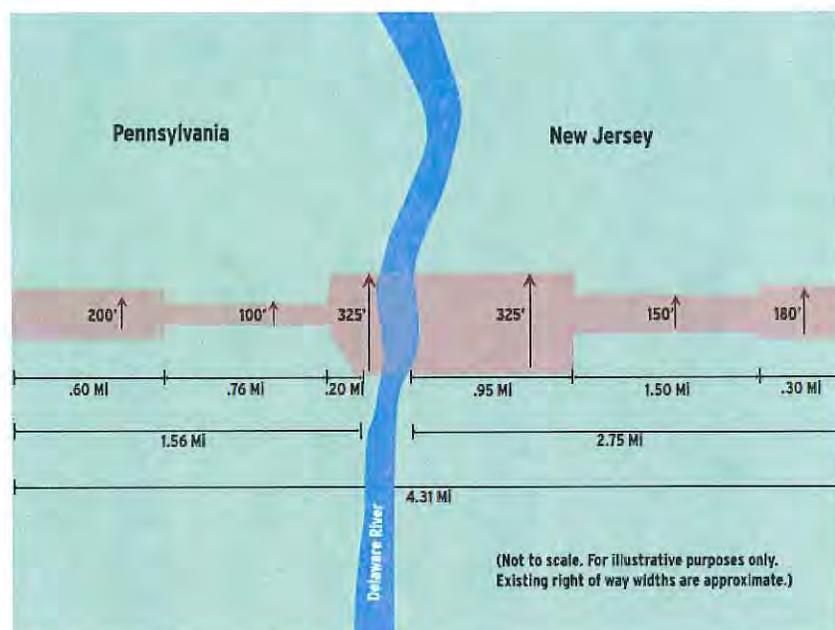
#### B. **Alternative 2**

There are several statements in the DEIS that either do not correctly state the Applicants' proposal or overstate the impacts of the Applicants' proposal. These mistakes and overstatements often seem to arise from a fundamental failure to acknowledge the character of the existing 230 kV B-K Line and the fact that it has been a part of the landscape shared with the NPS Units (and their visitors) since the moment each of them was created.

1. The DEIS assumes that a 350-foot wide corridor would have to be cleared (175' on either side of the centerline) for all action alternatives (pp. 46, 359, 393). This is incorrect with respect to Alternative 2, as the graphic below demonstrates that there are no places where the existing ROW exceeds 325 feet and over half of the existing ROW is 200 feet or less. The Applicant has only requested an additional 50 feet of ROW for a .76 mile section that is currently only 100 feet. Therefore, it is legally impossible for the Applicants' to clear a 350 feet ROW contemplated as by the DEIS. In terms of actual clearing within the ROW, it is presently cleared, or scheduled to be cleared with respect to PPL sections, in a range from 100 to 200 feet depending upon the ROW section. Following construction, the Applicants expect to maintain the line to a cleared width of no more than 200 feet. Thus, the only additional ROW clearing that would be needed as a result of Alternative 2 is an additional 25 feet on either side of the centerline for 0.76 mile in PA or approximately 4% more cleared transmission corridor than exists now. The table below shows the existing ROW widths within the 4.31 miles of line within the NPS Units and the clearing and additional ROW that would be required for Alternative 2.

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**TABLE 1: EXISTING ROW AND CLEARING REQUIREMENTS**

Existing ROW Widths in NPS Units	Existing ROW Lengths in NPS Units	Vegetation Clearing for the Existing 230 kV Line	Additional ROW Required for Alternative 2	Additional Vegetation Clearing Required for Alternative 2
100 feet in PA	0.76 mile	100 feet	50 feet for 0.76 mile	50 feet for 0.76 mile or 4.6 acres
150 feet in NJ	1.50 mile	150 feet	None	None
180 feet in NJ	0.30 mile	180 feet	None	None
200 feet in PA	0.60 mile	200 feet	None	None
325 feet in PA	0.20 mile	100 feet	None	None
325 feet in NJ	0.95 mile	150 feet	None	None
<b>TOTAL</b>	<b>4.31 miles</b>			

The planned clearing by PPL unrelated to the S-R Line is necessary to be consistent with its vegetation management plan filed with NERC. PSEG's vegetative management plan clearing was completed in New Jersey before the filing date of this document. PPL's clearing is expected to be completed in Pennsylvania by the end of April 2012.

Additionally, the DEIS assumes that pulling and splicing sites for the installation of the conductors on the transmission line towers would be constructed outside of the ROW and this assumption is not correct (pp. 394, 396, 398, 400 and 401). The pulling and splicing sites will be within the footprint of transmission line rights of way for the S-R Line.

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The overstatement of ROW widths and required vegetation clearing affects several of the resource discussions contained in the DEIS and the DEIS needs to be amended to accurately reflect the ROW widths and clearings and the actual impacts that could occur in the areas of:

- Wetland impacts;
- Visual Resource Impacts;
- Cultural Resource Impacts;
- Visitor Use Impacts;
- Special Status Species Impacts
- Landscape Connectivity
- Rare and Unique Community Impacts

1. The DEIS states that the proposed ROW and continual vegetation maintenance would completely bisect the habitat in the Hogback Ridge Woodlands, creating two sections of Woodlands and reducing interior forest habitat (p. 491). This statement is presented as if there is no existing ROW. Simply put, the existing ROW already bisects this habitat and existing required vegetation maintenance already impacts this habitat, therefore there would be no changes that reduce interior habitat or cause a “bisection” of this habitat area.

2. The DEIS mischaracterizes the amount and character of the existing access roads associated with Alternative 2 (p. 38, DEIS Table 3:50). Table 2 shows the Applicants’ best estimates of the approximate acreages of the total new and existing access roads that would be used for the construction of the S-R Line. This table further breaks down the access road needs by those which are already within the ROW and thus do not require new land disturbance and those outside of the ROW. Of the approximately 7 total acres of new roads proposed by the Applicants’, only approximately 0.5 acres is actual new construction outside the cleared existing ROW.

TABLE 2 – ROAD AREA/ ALTERNATIVE 2	ACRES
1. New Access Roads within ROW	6.5
2. New Access Roads outside ROW	0.5
3. Existing Access Roads within ROW	1
4. Existing Access Roads outside ROW	10.25

3. The DEIS does not acknowledge the existence of access roads that are currently being used for maintenance of the B-K Line. These roads are suitable for pickup truck traffic now and would need to be improved for construction traffic, but the necessary improvements are not as severe as the construction of new roads.

4. The DEIS states that an access road is proposed in the Arnott Fen (p. 371). Although this was originally correct, it is important to note that the Applicants have subsequently met with the NPS and USFWS. As a result of these informal consultations an alternate proposed access road to the south of the Fen was identified that would have no impact to the Fen. It is the

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Applicants' intent to utilize this southern access road, upon final approval from the NPS and using this road results in approximately 0.4 acres less of road impacts.

5. The DEIS analysis of adverse impacts to visitor use (pp. 625-642) fails to recognize that the existing transmission line has been in place in the NPS Units from the moment of their creation and the presence of this line has not limited visitor enjoyment of the NPS Units as evidenced by the amount of visitor use in the NPS Units and as discussed in Section \_\_\_\_ of this letter. The incremental impact of the construction of the S-R Line should not change this dynamic and the only direct impacts to visitor use that are substantially different to what exists now would occur during construction when there will be more physical activity within the ROW. However, as this construction will be limited to winter months, the amount of visitors likely to be impacted is much lower than in the months of higher visitor use.

6. The DEIS states that access roads would be constructed within 200 feet of the bank of MDSR (p. 646). This statement is incorrect as the closest access road in Pennsylvania is approximately 1,000 feet from the MDSR and the closest access in New Jersey is located approximately 500 feet from the MDSR.

7. The DEIS states that 23.94 acres of forested wetlands would be converted to shrub or emergent wetlands during ROW clearing (p. 381). This is inaccurate because, as previously discussed, the majority of the ROW is already cleared of vegetation and the NPS has overstated the amount of new clearing that would be necessary.

8. The DEIS has greatly overestimated, by a range of 2 to 20 times, the cost of construction of Alternative 2 and states that it would be 2.17 billion dollars (DEIS App. E). The cost budgeted by the Applicants is 1.25 billion dollars. The following factors have caused the NPS to overestimate the cost:

- Assumed 11 towers per mile – there will only be 5 towers per mile
- Assumed \$3\ft. of shield wire – actual cost is \$1\ft on average
- Assumed cost per mile of optical ground wire at \$17\ft. – actual cost is \$2\ft.
- Assumed \$3 million per mile for cost of conductor wire – actual costs will be approximately \$150,000 per mile for conductor wire.
- Overestimated the cost of ROW acquisition at \$100 million when the actual costs were \$3.4 million in Pennsylvania and \$21.3 million in New Jersey.

9. The DEIS states there will be residential displacements in Lehman, Hardwick and Stillwater townships (p. 539). No residential displacements will occur except for the few instances where a residence has physically encroached on the ROW.

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10. The intensive Phase I survey identified 25 archeological sites along the alignment for alternatives 1, 2 and 2b. Three of these sites (2 prehistoric, 1 historic) were within the APE. The Applicants have asserted that the remainder would not be affected by construction activities (Berger 2010b) by using strategies of avoidance and/or non-ground-disturbing construction techniques. Additional fieldwork conducted in 2011 (Berger 2011) has not been incorporated into this document.

11. The complete, Section 106 complaint, Phase I/II report detailing the results of the archeological investigations of Alternatives 1, 2 and 2B will be submitted to the NPS in the near future. That report will detail that only two archeological sites (prehistoric) are recommended eligible for the National Register of Historic Places and that the Project will not affect the site as the Project will employ strategies of avoidance and/or non-ground-disturbing construction techniques in that area. All other sites identified were either recommended not eligible or were not evaluated for eligibility because the Project will employ strategies of avoidance and/or non-ground-disturbing construction techniques thereby precluding the need to determine eligibility as the Project will not impact the site and therefore its eligibility is not relevant.

12. The DEIS should be revised to inform the decision-maker and the public that the existing transmission line and corridor through the DEWA is itself considered a historic component of the existing visual environment and cultural landscape. As part of the permitting requirements necessary for the proposed Project, the potential historic component of the PNJ Interconnection – Wallenpaupack to Siegfried Line and the Bushkill to Roseland Line, which includes the corridor and existing 230 kV through the DEWA, has been evaluated for eligibility for listing in the National Register of Historic Places (National Register). The results of the study conducted by The Louis Berger Group (Berger) concluded that the line and corridor appear to possess historical significance and integrity that qualify it as a resource eligible for listing on the National Register. The project corridor is recommended as eligible for listing in the National Register under Criterion A in the areas of engineering and industry as a segment of the 1928 PNJ Interconnection of the PSE&G, PP&L (predecessor organization to contemporary PPL), and the Philadelphia Electric Company (PECO) transmission lines. The PNJ Interconnection – Wallenpaupack to Siegfried Line and the Bushkill to Roseland Line is also recommended eligible for listing on the National Register under Criterion C as a significant engineering achievement of the late 1920s and specifically as an important advancement in the field of electrical utilities. The line and corridor are significant on a national level (in both New Jersey and Pennsylvania) with a period of significance from construction of Lake Wallenpaupack Dam, Pipeline, and Hydroelectric Plant (begun in 1924), the inception of the interconnection agreement in 1927, through the expansion of the interconnection into the Pennsylvania-New Jersey-Maryland Interconnection (PJM) in 1956. Both the Pennsylvania Historical and Museum Commission (PHMC) and the New Jersey Historic Preservation Office (NJHPO) concurred with the study via letters dated August 29 and September 9, 2011, respectively, and confirmed the line and corridor as National Register eligible. While these letters were received relatively late in the DEIS process, the Applicants note that the eligibility status of the line and corridor as a National

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Register-eligible historic property was not included in DEIS and request that this eligibility status be included.

The existing line currently continues to function in its historical capacity. While the Applicants acknowledge that Alternative 2 would have an adverse effect on the historic nature of the existing line and corridor through the DEWA, the Applicants as well as the PHMC and NJHPO recognize that alterations and changes to the line itself, upgrade of towers and wires, etc., may be viewed as part of the necessary evolution of our infrastructure in keeping with modern technological advancements, demands, and requirements of the electrical grid system.

### C. **Alternative 2b**

The DEIS states that Alternative 2b is based upon the “controversial assumption” that the Applicants have the right to clear danger trees outside of the deeded ROW (p. vi 55). The area of concern to the NPS is the 100 foot ROW held by PPL. The DEIS should be revised to eliminate the assertion that danger tree removal is controversial as PPL has the right to remove danger trees consistent with the Stipulation and Order of Settlement referenced in I.J. *See also* Greg Smith letter to NPS dated December 7, 2010 and located in Appendix D to the DEIS.

1. The DEIS states that an access road is proposed in the Arnott Fen (p. 371). This is incorrect and the NPS and USFWS have been provided with constructability drawings that show the proposed access is south of the Fen and would have no impact to the Fen.
2. The DEIS overstates the amount of access roads needed for 2b (p. 38 DEIS Table 3; 56). While 2b could have slightly more access roads than Alternative 2 because more towers are required, the road acreage is essentially the same as shown in Table 2 for Alternative 2.
3. The DEIS analysis of adverse impacts to visitor use (pp. 625-642) fails to recognize that existing transmission line has been in place in the NPS Units from the moment of their creation and the presence of this line has not limited visitor enjoyment of the NPS Units as evidenced by the amount of visitor use in the NPS Units and as discussed in Section I.J. on the background of DEWA. The incremental impact of the construction of the S-R Line should not change this dynamic and the only direct impacts to visitor use that are substantially different to what exists now would occur during construction when there will be more physical activity within the ROW. However, as this construction will be limited to winter months, the amount of visitors likely to be impacted is much lower than in the months of higher visitor use.
4. The DEIS states that access roads would be constructed within 200 feet of the bank of MDSR (p. 646). This statement is incorrect as the closest access road in Pennsylvania is approximately 1,000 feet from the MDSR and the closest access in New Jersey is located approximately 500 feet from the MDSR.

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5. Alternative 2b will have the same effects on historic resources as described in comments 10-12 under the Alternative 2 comments.

#### **D. General Comments Applicable to Alternatives 3, 4 and 5**

The Applicants' September 13, 2010 comment letter on Alternatives from John Lain to the DEWA EIS Planning Team detailed the many significant problems with Alternatives 3, 4 and 5 and those comments are incorporated herein reference. Additionally, the DVD attached as Exhibit 1 shows critical constraints on these Alternatives that make them infeasible.

Another problem is that Alternatives 3, 4 and 5 are premised on the assumption that the impacts of these possible new routes proposed by the NPS would be substantially "mitigated" by removal of the B-K Line from DEWA. Two major analytical problems result from the inclusion of this assumption about Alternatives 3, 4 and 5 in the DEIS. The problems flow both from the inclusion of the assumption, and from the way the assumption is presented.

The first problem is that DEIS makes no analogous assumption about the possibility of substantial mitigation under either of the other alternatives, namely, those proposed by the companies. The two sets of alternatives are apples and oranges. The decision-maker and reader are unable to draw any reliable comparisons and contrasts between the alternatives proposed by the companies (2 and 2b) and those proposed by the NPS (3, 4 and 5).

The second problem is that the assumption is presented in a casual, almost off-hand way, as if it were a simple, inconsequential act to remove the line from DEWA and put it somewhere else. The DEIS offers no analysis of the costs or consequences of what is, in fact, a very complicated, expensive, unpredictable matter that would inevitably carry significant environmental consequences.

As discussed elsewhere in these comments (see Section I.D.), the existing 230 kV grid interconnection that currently spans DEWA and interconnects the Bushkill and Kittatinny substations would not be replicated by Alternatives 4 and 5. That interconnection is mandatory for grid reliability – the line connecting those two substations has to exist somewhere. If the line is removed from DEWA, it would need to be replicated elsewhere. Furthermore, DEIS assumes that the existing line would be removed, but fails to disclose that Alternatives 3, 4 and 5 would require regulatory approval and construction of an additional transmission corridor to connect the Bushkill and Kittatinny substations – a new line and new right-of-way that would be in addition to and located separate from the new corridors proposed by the NPS for the Project (which would, under the NPS proposals, connect other parts of the grid).

When the NPS assumes that the existing line would be removed and put somewhere else, the agency is assuming also that the government bodies that regulate power line siting would approve a new route connecting the Bushkill and Kittatinny substations and the new route for the Project. The agency offers no analysis or justification for this assumption. The DEIS appears to

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take it for granted that those approvals would be forthcoming. But the record is quite clear that the regulatory agencies in Pennsylvania and New Jersey, when presented with a choice of alternative alignments and construction of new or expanded transmission corridors for the S-R Line, rejected construction of new corridors and ordered the companies to build the new line (and upgrade the existing line) within the existing corridor.

The new corridors for the S-R Line connection and the Bushkill-Kittatinny connection would each likely draw considerable public opposition, and each would present substantial environmental impacts. Indeed, replication of the Bushkill-Kittatinny connection would likely impose very substantial impacts on NPS and other federal lands, as discussed in Section II.C-F. It misleads the public and the decision maker to assume that the new ROW's would somehow be simple or easy to create.

Even if such approvals were, hypothetically, possible to obtain, the process to secure them would take many years. The additional time would further delay the Applicants ability to comply with the directive they have received from PJM to maintain the reliability and capacity of the transmission grid between the Susquehanna and Roseland substations, and would exacerbate the risk of failures in the regional grid. The risk of grid failures is, of course, a risk to the public, to the residential, commercial, industrial and government electricity users in the Mid-Atlantic. These customers depend on continued, reliable electrical service.

Further delays would also mean imposition of further costs on electricity customers in the region, who currently pay more than \$200 million per year in congestion charges (which cover the cost to keep expensive local power plants operating) to compensate for the lack of sufficient reliable transmission capacity between Susquehanna and Roseland. The public is suffering from delay now, and would suffer even more if the companies were to have to enter the multi-year process of seeking the approval of grid and utility regulators to create two new transmission corridors.

When the DEIS asks the reader to assume that the companies would abandon the current corridor and transmission interconnection between Bushkill and Kittatinny, the agency is asking the reader (and, of course, the decision-maker) to believe that two well-run publicly traded companies subject to exacting oversight by state utility regulators and scrutiny from shareholders and ratepayers would voluntarily surrender assets worth many millions of dollars and essential to grid reliability in exchange for the remote and risky possibility of being able to build two new transmission corridors somewhere else. As mentioned before, DO 12 contains a "common sense" standard for the review of alternatives. The assumptions that the DEIS makes regarding Alternatives 3, 4 and 5 do not pass the common sense standard.

None of these considerations are revealed in the DEIS, and all are directly and substantially relevant to the decision that is before the agency. The reader and decision-maker would benefit if the DEIS were amended to describe the central assumption in Alternatives 3, 4 and 5 and its consequences more fully. The DEIS should be so amended.

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**D. Alternative 3**

In addition, the general comments contained in this letter and the comments incorporated by reference from the Applicants' September 13, 2010 letter, the Applicants have the following comments on Alternative 3:

1. The NPS assumes a right of way of 350 feet for Alternative 3 (p. 56). The DEIS should compare this anticipated ROW width with the actual ROW width of Alternative 2 as presented in Section II.B above.

2. The DEIS states that duration of construction impacts would be less than 8 months (p. 549). This understates the likely construction impacts because the additional 1.1 miles of line, and the construction of new access roads, should be assumed to be greater than Alternative 2.

3. The DEIS inconsistently states length of Alternative 3 affecting NPS Units by stating on p. 549 that the length is 4.5 miles when correct length is 5.4 miles as correctly stated elsewhere in the DEIS.

**E. Alternative 4**

In addition, the general comments contained in this letter and the comments incorporated by reference from the Applicants' September 13, 2010 letter, the Applicants have the following comments on Alternative 4.

As discussed in Section I.D., Alternative 4 is not functionally equivalent to Alternative 2 or 2b and would not resolve the grid stability issues that are at the heart of the Applicants' Special Use Permit and ROW application. In the Applicants' comment letter to the NPS on the Alternatives dated September 13, 2010, the Applicants pointed out the critical flaws that made Alternative 4 infeasible. The Applicants hereby incorporate those same comments by reference as nothing presented in the DEIS has changed the Applicants' opinion as to the infeasibility of Alternative 4. In further support of the infeasibility of the construction of Alternative 4, the Applicants have enclosed a DVD of a flyover of critically constrained portions of the Alternatives.

1. Alternative 4 would add a new overhead transmission line crossing of the Delaware River at the existing Delaware River Viaduct approximately 2 miles south of DEWA, as compared to crossing the Delaware at an existing transmission line ROW. The DEIS correctly states that no new crossing would be required of the MDSR, but does not reflect the requirement for a new transmission line crossing of the Delaware River in other locations.

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2. Alternative 4 would require an expanded ROW at the existing crossing of APPA in the CVNWR.

3. The NPS assumes a right of way of 350 feet for Alternative 4 (p. 56). The DEIS should compare this anticipated ROW width with the actual ROW width of Alternative 2 as presented in Section II.B above.

#### F. **Alternative 5**

In addition, the general comments contained in this letter and the comments incorporated by reference from the Applicants' September 13, 2010 letter, the Applicants have the following comments on Alternative 5.

As discussed in Section I.D., Alternative 5 is not functionally equivalent to Alternative 2 or 2b and would not resolve the grid stability issues that are at the heart of the Applicants' Special Use Permit and ROW application. In the Applicants' comment letter to the NPS on the Alternatives dated September 13, 2010, the Applicants pointed out the critical flaws that made Alternative 4 infeasible. The Applicants hereby incorporate those same comments by reference as nothing presented in the DEIS has changed the Applicants' opinion as to the infeasibility of Alternative 5. In further support of the infeasibility of the construction of Alternative 4, the Applicants have enclosed a DVD of a flyover of critically constrained portions of Alternative 5 that would have to be built outside NPS lands.

1. The DEIS correctly states that no new crossing would be required of the MDSR, but does not reflect the requirement for a new transmission line crossing of the Delaware River in other locations. This crossing would be at the Delaware River Viaduct which is a significant historic structure.

2. Alternative 5 would require a significant expansion of an existing ROW at the crossing of APPA, which is located in the CVNWR.

3. The NPS assumes a right of way of 350 feet for Alternative 5 (p. 56). The DEIS should compare this anticipated ROW width with the actual ROW width of Alternative 2 as presented in Section II.B above.

### *III. CONCLUSION*

On behalf of the Applicants, we would like to thank the NPS for the opportunity to submit these comments and we trust that the NPS will find them helpful in the process of revising the DEIS to accurately describe the proposed Project and the alternatives and the impacts associated with the alternatives. As stated above in more detail, there are several key factors that need to be considered by the decision maker. These are:

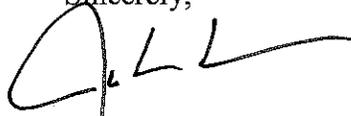
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- the pre-existing nature of the S-R Line;
- the Applicants legally enforceable property rights;
- the lack of equivalent functionality of Alternatives 3, 4 and 5 and their inability to be constructed by the PJM in-service date of June 2015;
- the greater overall environmental impacts that would occur if new ROW had to be constructed for Alternatives 3, 4 or 5; and
- the Applicants' mitigation.

We are confident that continued analysis of the Alternatives and the Project will lead the NPS to select Alternative 2 as the preferred alternative and we are hopeful that such a decision will be made in a timely fashion.

Sincerely,



John M. Lain  
McGuireWoods, LLP



Thomas C. Jensen  
SNR Denton

JML/ymp

cc: Pamela Underhill (w/out attachment)  
John Donahue (w/out attachment)  
Kim Hanemann (w/out attachment)  
Gregory J. Smith (w/out attachment)  
Geraldine Smith (w/out attachment)  
Ronald J. Reybitz (w/out attachment)  
Andrew Tittler (w/out attachment)

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## Exhibit List

1. Helicopter Flyover of Alternative 3, 4, and 5 Critical Constraints.
2. Letter from PJM to the NPS dated September 13, 2010.
3. Letter from Greg Smith of PPL to the NPS dated January 11, 2012.
4. Applicants' Construction and Restoration Standards.
5. Vegetation Management Plan (PPL).
6. Vegetation Management Plan (PSE&G).
7. Safety and Health Plan.
8. S-R Compliance Table with Appendix F of DEIS.
9. Applicants' Mitigation Methodology.
10. Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions.
11. Applicants' Historic Resource Viewshed Analysis.
12. U.S. District Court for the Middle District of Pennsylvania Stipulation and Order of Settlement, Civil Action No. 3:10-CV-01670-ARC.
13. Commonwealth Court of Pennsylvania Opinion and Order upholding decision of the PAPUC to approve construction of the S-R line.
14. New Jersey Appellate Division Order denying the project opponents request to have the S-R Line decision remanded to the NJBPU.

Gregory J. Smith

PPL Electric Utilities  
Two North Ninth Street, GENN5  
Allentown, PA 18101-1179



January 11, 2012

VIA FEDERAL EXPRESS  
National Park Service  
Denver Service Center - Planning Division  
Attn: Morgan Elmer  
12795 W. Alameda Parkway  
P.O. Box 25287  
Denver, CO 80225-0287

Re: Susquehanna to Roseland 500 kV Transmission Line Right-of-Way and  
Special Use Permit Draft Environmental Impact Statement: Alternatives 4 and 5  
Comments on Functional Equivalency

Dear Mr. Elmer:

On behalf of PPL Electric Utilities Corporation ("PPL") and Public Service Electric and Gas Company ("PSE&G") (collectively PPL and PSE&G are referred to as the "Applicants"), I am writing to the National Park Service (the "NPS") to provide the Applicants' initial comments related to Alternatives 4 and 5 as presented in the Susquehanna to Roseland 500 kV Transmission Line Right-of-Way and Special Use Permit Draft Environmental Impact Statement ("DEIS"). These comments will be supplemented by additional material to be included with the Applicants' comprehensive comments on the DEIS, which will be filed no later than January 31, 2012.

The comments presented here are largely technical, though they address a central assumption applied in the DEIS, i.e., the feasibility of alternatives. The DEIS presents three alternative routes to the Applicants' proposal for locating the proposed Susquehanna-Roseland transmission project, Alternatives 3, 4 and 5. As explained in past correspondence, none of these alternatives are technically feasible, and neither Alternatives 4 nor 5 are functionally equivalent to the Applicants' proposal (DEIS Alternative 2 or 2b). The DEIS should be edited to disclose to the decision-maker and public the reasons, detailed below, why the NPS Alternatives 4 and 5 will not meet the purpose of the Applicants' proposed project.

The DEIS states that the NPS identified the "possible routes in each alternative that could connect the Susquehanna and Roseland substations". The DEIS explains that the "NPS identified routes solely to determine if construction on the routes is technically feasible". (DEIS at page v). The DEIS says on page 29 that Alternatives 3, 4 and 5 were "evaluated and determined to be technically feasible". Later on the same page, the DEIS says that Alternatives 3, 4 and 5 "were developed by the NPS simply to determine whether construction on a route was possible...."

The wording of the DEIS is not clear. Does it mean that the DEIS seeks to analyze whether it is technically feasible to put transmission towers on lands comprising

the three NPS alternative routes? Or does the language mean that the NPS intended to use the DEIS to present the alternative routes as "technically feasible" ways to improve the regional power grid to meet the same standards for reliability that would be achieved by the Applicants' proposed project? In other words, does the DEIS intend to show the decision-maker and the public alternative ways to improve the regional power grid while reducing impacts on resources managed by the NPS? The question "Would it be technically feasible to put towers and conductors here?" is quite a different question than "Would the towers and conductors work properly as part of the grid system?"

Without clarification, the DEIS raises the possibility that any party might interpret it to present for the decision-maker's consideration alternative ways to change the regional transmission grid that would meet the same standards for reliability that would be achieved by construction and operation of the Applicants' proposal. The Applicants do not believe that the NPS DEIS was intended to be, or should be used or interpreted as, a tool for regional grid planning. At many points in the DEIS, the NPS seems to disclaim any intent to substitute its judgment for that of the other government and private sector parties charged with ensuring safe, reliable and prudent operation of the regional grid. And the DEIS offers no analysis of grid operations as they would be affected by the NPS alternative routes. Yet the mere presence of alignments for Alternatives 4 and 5 in the DEIS carries an implication that these alternatives would work as parts of the grid.

The DEIS should be revised to eliminate any ambiguity on this central point. The decision-maker and the public need to know the insurmountable challenges required to achieve both technical feasibility and functional equivalency. The NPS Alternatives 4 and 5 are not functional equivalents of the Applicants' proposed project. Neither are they "technically feasible" in any sense other than the purely hypothetical sense that they can be imagined and drawn on a map.

This letter describes grid reinforcements necessary for the NPS Alternatives 4 and 5 to be functionally equivalent to the Applicants' proposal. In other words, our comments here show what would be needed to fix the problems presented by these alternatives because merely removing the Bushkill to Kittatinny line segment results in numerous grid reliability issues. These fixes, however, are not capable of transforming the routes into feasible alternatives to the Applicants' proposal. NPS Alternatives 4 and 5, remodeled to achieve functional equivalency, would add to the list of reasons why these alternatives are not feasible. They are unacceptably costly for electricity consumers, impractical from a line routing perspective, and would take an unacceptably long time to place in service.

### **Background**

The letter sent by the Applicants' outside legal counsel, John Lain of McGuireWoods, on September 13, 2010 to the EIS Planning Team provided the Applicants' comments related to the alternatives proposed to be assessed by the NPS that were set forth in Newsletter 2 of its "Susquehanna to Roseland Transmission Line Environmental Impact Statement". The list of significant impacts/flaws for Alternatives 4 and 5 included in the September 13 letter are included in this letter by reference.

Subsequently, G. J. Smith's September 7, 2011 letter to John Donahue explained that with the exception of Alternatives 3 and 8 (subsequently relabeled 2b) the NPS action alternatives, specifically Alternatives 4 and 5, were not functional equivalents to Alternative 2. The content of the September 7 letter was presented to the NPS and others in an October 6, 2011 meeting by Steve Herling, PJM's Vice-President of System Planning. As was explained in the letter and by Mr. Herling, the assumption made in the DEIS concerning the removal of the line segment between Bushkill and Kittatinny failed to recognize that the removal degrades the reliability of the regional electric transmission system.

The removal of the Bushkill to Kittatinny 230 kV line segment eliminates one of the three 230 kV line terminals at Bushkill and one of the four 230 kV line terminals at Kittatinny. Doing so results in numerous reliability criteria violations, introduces loss of service risk to electricity consumers on both sides of the river, and increases operational risks related to maintenance outages. Alternatives 4 and 5, as initially presented to the public and the Applicants, did not provide functional replacements for the removal of the 230 kV line terminals at Bushkill and Kittatinny and result in the following reliability violations.

For Alternative 4:

- An overload of the 10.6 mile single circuit 230 kV line between Martins Creek and Northwood.
- An overload of the 6.4 mile double circuit 230 kV line between Kittatinny and Portland.
- An overload of a 230 to 115 kV transformer at Northwood.

For Alternative 5:

- An overload of the 10.6 mile single circuit 230 kV line between Martins Creek and Northwood.
- An overload of the 6.4 mile double circuit 230 kV line between Kittatinny and Portland.
- An overload of a 230 to 115 kV transformer at Northwood.
- An overload of the 41 mile double circuit 230 kV line between Greystone and Portland.
- Low voltage conditions at Shawnee, Fox Hill and Monroe.

The DEIS attempted to provide functional equivalency for Alternative 5 with the statement: "Although not analyzed in the EIS, alternative 5 assumes a 230-kV transmission line will run from alternative 5 up to the Bushkill Substation on the west side of the park. In addition, alternative 5 also assumes that a 230-kV transmission line would run up to Kittatinny Substation on the east side of the park" (see page 63). This was not the Applicants' understanding from earlier conversations with the NPS. Nevertheless, this letter discusses the impact of these additional line segments.

The DEIS does not appear to provide functional equivalency for Alternative 4. In order to simulate a functionally equivalent route, the Applicants' have evaluated two modifications that would be necessary. One is a 230 kV line that runs up to Kittatinny Substation on the east side of the park. This line would follow the same general route as proposed in the DEIS for Alternative 5 (see page 63 of the DEIS). The second

modification involves connecting the 230 kV line from Bushkill, on the Pennsylvania side of the river, in and out of Monroe Substation.

The addition of the 230 kV lines for Alternative 4 (to Kittatinny on the east of side of the river) and Alternative 5 (to Kittatinny on the east side of the river and to Bushkill on the west side of the river) will remove the reliability violations and makes these alternatives functionally equivalent to the other action alternatives in the DEIS. Doing so, however, introduces unacceptable cost and line routing issues as discussed below. In addition, any alternative other than the Applicants' proposal (Alternative 2 or Alternative 2b) will result in delaying project completion by several years beyond its anticipated June, 2015 date and as such will not meet the Project needs as described in Applicants' permit application. Furthermore, the Bushkill to Kittatinny line segment will need to remain in service until the reinforcements are completed; likely toward the end of the decade. As this facility was installed in the 1920's and is nearing the end of its useful life, there is a cost and reliability exposure associated with delays. In fact, but for the Susquehanna-Roseland Project portions of this line segment would be included in PPL's Vintage Transmission Conductor Replacement Program.

#### **Alternative 4 Modifications Required for Functional Equivalency**

The additional line proposed for Alternative 4 would run up to Kittatinny Substation on the east side of the park in New Jersey. This is a completely new line segment that, to the Applicants' knowledge, has not been included in any of the NPS alternatives carried forward in the DEIS. The Applicants have assumed that the route of this line segment would start at the Paulinskill Viaduct river crossing, follow the DEIS Alternative 4 line route to the existing FirstEnergy Kittatinny-Portland 230 kV line. At this location, the 230 kV side of the line would deviate from Alternative 4 to parallel the west side of the existing right-of-way northward for approximately 3.6 miles to a termination at Kittatinny Substation. The 500 kV side of the line would continue along the Alternative 4 route. Also, the 230 kV line in Pennsylvania will include a termination at Monroe Substation. The incremental cost to Alternative 4 is approximately \$20 million. These modifications have a number of significant routing and environmental challenges and impacts. They include the following:

- Residences in the near vicinity of the new line in New Jersey, including:
  - Approximately 3 houses within the new 150-foot right-of-way.
  - Approximately 28 houses within 250 feet of the new 150-foot right-of-way.
  - Approximately 53 houses within 500 feet of the new 150-foot right-of-way.
- An additional 65 parcels crossed.
- An additional 19 acres of forest clearing (i.e., an approximate 75-foot-wide clearing for 2.1 miles).
- Crossings of waters and wetlands, including new crossings of the Paulins Kill and Yards Creek and associated wetlands.

#### **Alternative 5 Modifications Required for Functional Equivalency**

The additional lines proposed for Alternative 5 include the Paulinskill Viaduct to Kittatinny line in New Jersey and an additional single circuit 230-kV transmission line in Pennsylvania between the Monroe and Bushkill substations with terminations at both ends. On the New Jersey side, the line would follow the Alternative 5 route to the existing FirstEnergy Kittatinny-Portland 230 kV line. At this location, the 230 kV side of the line would deviate from Alternative 5 to parallel the west side of the existing right-of-way northward for approximately 5.8 miles to a termination at Kittatinny Substation. The 500 kV side of the line would continue along the Alternative 5 route for the remaining 42 miles in New Jersey. On the Pennsylvania side, the Applicants have assumed a line route that is identical to the Alternative 4 route between the Bushkill and Monroe substations. The incremental cost to Alternative 5 is approximately \$80 million. These modifications have a number of significant routing and environmental challenges and impacts.

Impacts and flaws with the New Jersey line include

- Residences in the near vicinity of the new line, including:
  - Approximately 5 houses within the new 150-foot right-of-way.
  - Approximately 33 houses within 250 feet of the new 150-foot right-of-way.
  - Approximately 65 houses within 500 feet of the new 150-foot right-of-way.
- An additional 86 parcels crossed.
- An additional 32 acres of forest clearing (i.e., an approximate 75-foot-wide clearing for 3.5 miles).
- Crossings of waters and wetlands, including new crossings of the Paulins Kill, Yards Creek and Delawanna Creek and associated wetlands.

Impacts and flaws with the additional line in Pennsylvania include

- An additional line distance of 11.8 miles.
- Co-location for approximately 1.4 miles with an underground gas pipeline right-of-way. PPL has no existing easement rights along this right-of-way.
- Crossing Route 209 in Middle Smithfield Township through an area heavily congested with township, commercial, and school buildings.
- Crossing approximately 90 non-condemnable properties using a 150-foot right-of-way. While Pennsylvania law provides public utilities with the right of condemnation, there are limitations on this right in the following cases:
  - Dwellings and reasonable curtilage<sup>1</sup> around a house
  - Public worship places or burying grounds.
  - Based on these criteria, approximately 90 parcels that would need to be acquired for this path could not be condemned. This means that only one property owner refusing to sell could halt such a project, making this path infeasible.
- The Interstate 80 crossing at Route 209 is through an area where there is no existing right-of-way or easement. Additional rights would have to be secured in this area.

<sup>1</sup> Curtilage is an area surrounding a house for a distance of 100 meters, or to the property line, whichever is less.

### Another Option for Providing Functional Equivalency

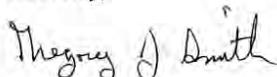
There is another option to eliminate the reliability violations and provide functional equivalency for Alternatives 4 and 5. That option would involve replacing the facilities that are overloaded with larger capacity facilities. For Alternative 4, the cost to replace the overloaded facilities is approximately \$90 million. For Alternative 5, the cost is approximately \$290 million.<sup>2</sup> In either case, the costs are excessive, and the time delay of several years is unacceptable. And, as stated previously, the Bushkill to Kittatinny line segment would need to remain in service until the reinforcements were completed; likely toward the end of the decade. As this facility was installed in the 1920's and is nearing the end of its useful life, there is a cost and reliability exposure associated with delays.

### Conclusion

It is clear that Alternatives 4 and 5 are not reasonable alternatives because they are infeasible from a line routing perspective. And, from an electric transmission reliability perspective, they are not functionally equivalent to the Applicants' proposal. The flaw in both of these proposals is the assumption that the line segment between Bushkill and Kittatinny would be removed. Such an assumption would require construction or replacement of additional 230 kV lines and other facilities in Pennsylvania and New Jersey. Those projects have significant insurmountable constraints and unacceptable costs and schedule delays. Alternatives 4 and 5 do not meet the purpose and need of the Project, and are not reasonable alternatives to be considered.

The Applicants respectfully request that Alternatives 4 and 5 be eliminated from further consideration.

Sincerely,



Gregory J. Smith

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<sup>2</sup> Note that for both Alternatives 4 and 5, no cost for the replacement of the Northwood Transformer is included as it is assumed that the Northwood overload can be resolved through generation re-dispatch.

