

January 30, 2012

National Park Service
Denver Service Center- Planning
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Dear Director Jarvis:

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 (CO₂) 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 minimizes the adverse effects and impacts to one of the stellar national park areas in the Northeastern United States. It is not too late to seriously consider a better alternative rather than an underhanded promise made by Secretary Salazar to approve the route that PPL demands.

The Secretary has exacted a commitment from the project proponents to provide a reported \$60 million for the park. As welcome as such money may be there is nothing in the Organic Act that allows the Secretary to impair park resources for a price. Make no mistake; this power line will significantly and adversely impact the scenic grandeur of Delaware Water Gap NRA for decades to come. If that is not “impairment” then nothing is.

Cordially,

Jeff Ruch
Executive Director