

**Testimony of Lynda K. Farrell**  
**House Consumer Affairs Committee**  
**on House Bill 1817**  
**September 8, 2010**

Thank you, Chairman Preston, Chairman Godshall, and members of the House Consumer Affairs Committee for this opportunity testify in support of H.B. 1817.

My name is Lynda Farrell. My husband and I reside at 331 Norwood Road, Downingtown, in Chester County in a 1750's stone bank house, tucked into the seclusion of steep slopes and wooded acreage. We chose Chester County for it's thoughtful - and taxpayer supported - commitment to open space preservation, smart land use planning and environment and watershed protection as evidenced in Chester County's *Landscapes and Watersheds*. Supported and funded by citizens, the Best Practices created in this nationally acclaimed document are disregarded in the FERC siting process. In this case alone, state oversight of siting would provide a more subjective assessment of County funded programs in the siting process.

Late last night, I received copy of Carolyn Elefant, Esq. testimony. It mirrored my own as Ms. Elefant represented me and 4 other landowners in eminent domain proceedings. I ask for the committee's permission to read Ms. Elefant's testimony today as our testimonies follow the same thread.

I revisited my testimony to provide experiential flaws in the FERC siting of interstate pipeline as relates to Ms Elefant's testimony. In doing so I am providing excerpts from sworn testimony of the May 2009 in US District Court, Eastern District of PA before the Honorable Judge Savage sited by Ms Elefant.

In an August 2009 final ruling the court acknowledged that the Brandywine Five's efforts were a success and awarded attorney fees. This is significant because there is only one other federal district court case from the early '90s where landowners successfully fended off condemnation and received attorneys fees.

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The Process: FERC - Siting, Pre-filing, Filing, Intervener Status, Approvals

1) Notice of FERC filing is delivered to landowners by direct mail. Verification of delivery of notice to landowners is not required, yet time restrictions exist in order for landowners to file as interveners and therefore have standing in the FERC process. There is no requirement for notification of landowners in siting nor pre-filing, rather the land owner is expected to self motivate and look for Federal notices.

2) I received notice of the FERC /Williams Transco Sentinel Project filing a week before Christmas, by direct mail. My request for late intervention was due to my lack of knowledge in the process yet my request was denied.

3) On August 14, 2008, FERC issued a certificate for construction of the Sentinel Expansion Project authorizing Transco to construct the Sentinel Project as described in its application (open cut) and subject to the environmental conditions. in Appendix B.”

As a fourteen year board member of the Chester County Conservation District and having read the EA I was cognizant of the requirement for Transco to apply for NPDES permits from PA DEP. I learned that Transco’s application remained pending with DEP.

Despite outstanding PA DEP permits and despite DEP Chapter 105 prohibition of storage of spoil within 50 feet of a stream bed or waterway, Transco agents continued to threaten use of eminent domain rather than revisit the site design, (August 14, 2008 and April 30, 2009). At no point did FERC intervene in absence of permitting.

4) My pleadings to FERC did not establish us (Farrell) as interveners (therefore) I learned how to become a late intervener and filed for late

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intervener status in a timely manner on September 12, 2008. February 6, 2009 FERC denied our late intervention motion.

5) On March 4, 2009 I filed a request for rehearing of a February 6, 2009 denial. On April 3, 2009 the Farrells were denied rehearing. On April 4, 2009 the Farrells were served condemnation proceedings by Williams Transco council.

Cost effectiveness of Pipeline Projects is the main objective at FERC.

1) Per verification in meetings conducted with FERC and Congressman Gerlach & Chester County Commissioner's Chester County Pipeline Task Force, of which I am a founding member.

2) Additionally, beginning January 31, 2008, Transco agents initiated negotiations to acquire rights to access my property. We attempted to negotiate to minimize the effects of the project to our land, steep slopes and the watersheds of Ludwigs Run and Brandwine Creek, while allowing Williams Transco the ability to increase their capacity.

On April 9, 2009, I learned that the DEP issued two permits, an NPDES Individual Permit for the Stormwater Discharges Associated with Construction Activity Permit No. (PAI011508064) and the Water Obstruction and Encroachment Permit, (No. E15-780). The permits...did not allow Transco to utilize the open cut construction method proposed in its application to FERC. **'The permit does not authorize the encroachment or construction activities related to a new pipeline crossing or existing pipeline removal located...Ludwigs Run...until an amendment to this permit, approving the pipeline construction by horizontal directional drilling or other approved method, is issued by the Department.'**

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By letter dated April 24, 2009, DEP notified FERC about the permits, explaining that they "do not approve the construction procedures that were included in the Transcontinental application to FERC.

Although Transco did not meet EA requirement #5(c) of the certificate and authority under the FERC certificate exists only in compliance with state regulatory permits, Transco continued to proceed with eminent domain. I would argue that State authority would not disregard State mandated permits.

Inaccurate Mapping and Data on pipeline plans are submitted to FERC, not questioned by FERC and approved.

- 1) In it's Sentinel Project application to FERC, GSI mapping included a Farm Market that had been demolished 10 years prior and replaced once by a Hechingers and then Home Depot. State and local authorities were certainly aware of this critical mapping error.
  
- 2) On August 4, 2008, a second offer was delivered to us and included an increase of temporary space to from .210 acres to .902 acres. Five months later, December 31, 2008, we received a Final Offer letter from Transco. January 9, 2009 we responded declining the offer. A subsequent meeting with land agent Mr. Allen, revealed that the temporary work space of .902 acres was a clerical error. Yet, April 1, 2009 we received a Supplemental Agreement which intended to correct the error. We were served condemnation proceedings on April 4, 2009.

Using multiple names of locations in a pipeline project reduces the number of required permits

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Despite State agencies (CCCD, PA DEP) recognition that filing projects in sections or Loops, diminishes permitting requirements, the FERC permits this practice.

Taking of land for ROWs is determined by The Industry, not by State or local land use Best Practices.

High Consequence Areas are routinely used in pipeline sitings.

How do I know all this? Since January 6, 2008 I was directly involved in 27 FERC filings regarding the Sentinel Project, personally reviewed an unprecedented 431 submissions in this matter made to FERC (as of April 28, 2008)

I have attended Williams publicized & legislatively organized meetings held in Chester County, communicated and worked along side legislative aides such as US Senator Arlen Specter, US Senator Bob Casey, US Congressman Jim Gerlach, PA Senator Andy Dinniman and PA Representative Curt Shroder, in efforts to become educated citizens able to respond appropriately to the process. I've done all the right things to become educated and participate in a Federal process that does is not citizen friendly.

In addition to participating in the FERC proceeding, I was also involved in meetings with state and local permitting agencies regarding Transco's certification application. These meetings included Chester County Water Authority, Chester County Planning Commission, Chester County Conservation District and Pennsylvania Department of Environmental Protection and were held in order to discuss state and local permitting as well as the environmental pros and cons of construction methodologies.

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I strongly support state authority through a Mid Atlantic Compact and wish to now read Ms Elefant's testimony.

Respectfully Submitted,

Lynda Farrell