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Delaware Township

Hunterdon County, New Jersey

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OFFICE OF TOWNSHIP COMMITTEE

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June 3, 2016

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

URS Corporation
Grace Ziesing, Senior Archaeologist
625 West Ridge Pike, Suite E-100
Conshohocken, PA 19428

RE: Response to PennEast Pipeline Company, LLC's FERC Process Participation Request
Dated March 11, 2016

Dear Secretary Bose and Ms. Ziesing:

We have received URS Corporation's March 11, 2016 letter requesting the Delaware Township Historic Advisory Committee's participation in the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) process for the PennEast project as an "interested party." That letter ignores the law. As mandated by the National Historic Preservation Act (16 U.S.C. § 470 *et seq.*), the Delaware Township Historic Advisory Committee ("Committee") has the right to participate as a "consulting party" for the PennEast project.

Under NHPA regulations, "the representative of a local government with jurisdiction over the area in which the effects of undertaking may occur is *entitled* to participate as a *consulting party*." 36 C.F.R. § 800.2 (emphasis added). Delaware Township is a local government as defined by the regulations, and the Committee is the Township's representative for NHPA consultation purposes. Therefore, the Committee has a right to consulting party status and does not accept the legally insufficient "interested party" status.

As a mandatory consulting party, the Committee has the right to review and consult on PennEast's factual findings during the NEPA process. This includes findings related to the identification of impacted historic sites, the calculation of the level of adverse impacts, and the

determination that impacts can be mitigated. 36 C.F.R. § 800.8. The Committee is aware that PennEast has already conducted some archaeological field surveys, yet the reports documenting these surveys were not provided to the Committee. As a mandatory consulting party, the Committee has a right to review and comment on these reports. The Committee requests PennEast provide a copy of all previous reports and that PennEast continue providing future reports as soon as they are prepared.

The Committee asks that FERC and PennEast immediately recognize its status as a consulting party and provide all relevant documentation for the Committee's review. Failure to do so would violate NHPA's requirements. This is not the first time the Committee has made this request. Our first request to participate as a "consulting party" was in February 2015, which was raised sufficiently early to make the opportunity to consult on any reports meaningful, and to initiate consultation well in advance of the issuance of any Draft Environmental Impact Statement (DEIS). Under the regulations, a consulting party must be involved beginning "at the early stages of the project planning" so the party can fully consult on all stages from identifying historic sites, conducting surveys of those sites, and mitigating impacts. 36 C.F.R. § 800.1 *et seq.*

Because our previous request to participate was ignored and the latest archaeological survey report was provided to the NJHPO, but not the Committee, six months ago, we have been deprived of involvement in important NHPA stages, in violation of our rights as a consulting party. If we had been involved in February 2015 at the beginning of the NHPA process, we would have had more than a year to review and consult on PennEast's findings as they were released. Since our involvement has been needlessly delayed until nearly two years after the NJHPO began its consultation, we insist that we be given at least six months to review and comment on any reports that have been completed before any DEIS is issued that evaluates potential effects on historic properties. No lesser amount of time would meet FERC's mandate under the Section 106 process: to "ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking." And even this length of time is less than we would have received if we had been properly consulted "at the early stages of planning." 36 C.F.R. § 800.1. Failure to grant us adequate time to review and comment would prevent both FERC and us from fully meeting the purposes and requirements of NHPA consultation.

Sincerely,


Susan D. Lockwood,
Delaware Township Mayor

cc: Jeff England, UGI
Bernard Holcomb, URS
Daniel D. Saunders, NJHPO
John Eddins, ACHP