

**SCHMID & COMPANY INC., CONSULTING ECOLOGISTS**  
1201 Cedar Grove Road, Media, Pennsylvania 19063-1044  
610-356-1416 fax: 610-356-3629  
[www.schmidco.com](http://www.schmidco.com) [spkunz@aol.com](mailto:spkunz@aol.com)

11 September 2019

Pennsylvania Public Utility Commission  
Attn: Secretary Rosemary Chiavetta  
400 North Street  
Harrisburg, PA 17120

*Via the PUC e-File System*

**In re: Comments on Docket No. L-2019-3010267**

Dear Secretary Chiavetta:

I am a Senior Ecologist at Schmid & Company, Inc. and I have been working the last 40+ years as a private-sector environmental consultant. My primary focus has been on wetland, stream, and water quality issues in the context of construction projects subject to federal and state laws and regulations. I have worked closely with the regulatory programs of state and federal agencies regarding impacts to wetlands and other water resources from fossil fuel extraction and transport, including major pipeline projects.

I concur with all of the comments submitted already by both the **Clean Air Council** and **PA Senator Andrew Dinniman** (both submitted on 8/28/19). While there is no need to repeat their thoughtful and detailed comments and suggestions, I do want to restate a few of them. In general, I request the Commission to act within its broad existing authority to enact regulations that will maximize safety for Pennsylvania pipelines, their operators, customers, neighbors, and the general public, and to prioritize protections for natural environmental features such as wetlands, streams, and other sensitive resources when pipelines must cross them.

**The Commission should enact a permitting process for pipelines.**

I call on the Commission to require a permitting process before pipeline companies undertake major projects to build new pipelines, expand their pipeline systems, or change their service, product, or direction of product transport. Pipeline regulations as they currently are implemented by the Commission rely heavily on pipeline companies' after-the-fact assurances of compliance. The Commission often is not provided key information regarding pipeline safety and risks to the public, the environment, and other resources until well after the project is in service, if that information is provided at all. Some aspects of projects, such as where they are sited, are not currently reviewed by the Commission at all. Yet Commission approval often limits the effectiveness of other agencies to try to site pipeline projects in the least environmentally sensitive locations. A more proactive approach, comparable to the well-established permitting processes used by other agencies, is both vitally needed and also well within the Commission's existing authority. A permitting process also would help ensure that the Commission

fulfills its obligations under Article I, Section 27 of the Pennsylvania Constitution (the Environmental Rights Amendment) vis-a-vis pipelines. The Commission must put in place processes to scrutinize pipeline expansion plans more closely, with an eye to protection of vulnerable populations and sensitive environmental resources.

**The Commission should consider environmental costs.**

The Commission should develop end-of-life guideposts using a risk analysis model which considers risks both to human health and welfare (e.g. quality-adjusted life year modeling) and to the natural environment. Risks to the natural environment are often discounted or treated as zero because nature never asks to be paid for its services. But nature is valuable for itself as well as to humanity in the form of aesthetic beauty, ecosystem services, and social benefits such as higher real estate values. In quantifying environmental costs, the Commission should consider protection and preservation of the stream and other water resources crossed by the pipeline. Some waterways have significantly higher value in terms of habitat or water quality and should be avoided so as to minimize direct impacts from construction and potential future impacts due to maintenance and inadvertent spills.

**The Commission should regulate the use of HDD as well as other trenchless technologies.**

Open trenching is very damaging to the environment, and causes ecological wounds which can take decades to heal, if they ever do. But the use of trenchless construction tools simply for the sake of expediency and without sufficient forethought or oversight can be equally untenable. Trenchless pipeline installation, if not planned or executed carefully, carries with it large risks of contaminating or depleting water wells, drying up aquifers, creating sinkholes, and spilling drilling fluids. HDD entry and exit apparatus take up large amounts of land, and the process of drilling can entail months or years of noisy and disruptive construction work. Operators need to study the land, water, and adjacent features closely and with hydrogeologic and geotechnical expertise. Decisions need to be based on comparative and quantitative risk to waterways, lands, and property, as well as the health and wellbeing of neighbors. Disasters come from failing to understand the geology and hydrogeology before making decisions.

**The Commission should strengthen its accident and incident reporting requirements.**

A comprehensive public awareness and incident response program would be most useful, with interagency cooperation required among the Commission, PEMA, each County EMA, municipalities, school districts, PennDOT, the Surface Transportation Board, PADEP, OSHA, PA Fish and Boat Commission, and other agencies and governmental entities. The Commission should impose heavy fines for late or incomplete or falsified incident reports.

**The Commission should protect public and private wells and water supplies.**

The Commission has the authority to take any and all steps to protect private water supplies under its broad safety mandate, as confirmed by the Commonwealth Court and Supreme Court. The Commission should require project proponents to identify all water supplies (including wells and springs) within 2,000 feet of trenchless construction alignments and to include an analysis of the risk of impairing the quality and quantity of water in those water supplies. When a pipeline operator damages or destroys a private water supply, Commission regulations should require all costs of repair or replacement of the water supply to be compensated.

**Compliance and enforcement**

The existing enforcement process at the Commission is relatively slow and is dependent upon governmental action to initiate reviews, rather than a system of self-certification and review common in other regulatory schemes impacting public utilities. The Commission should place the compliance burden on the operators in the first instance, rather than bearing the burden by having to initiate enforcement and inspection actions on the operator before enforcement can begin. The Commission should require all operators, especially of hazardous liquids and natural gas pipelines, to periodically self-certify and report compliance exceptions in a manner similar to how major sources of air pollution and permitted water discharge sources must perform similar self-certification and reporting.

Regulatory enforcement mechanisms currently are too weak, and fines too low, to change bad behavior. The onus should be on an operator to prove to the Commission why it should continue to operate, not on the Commission to show why the operator should shut down in the presence of sinkholes or following explosions. Also, the Commission should use its discretion to maximize penalties for repeat violators of Commission regulations, laws, and permits.

Thank you for the opportunity to provide these comments.

Yours truly,



Stephen P. Kunz  
Senior Ecologist