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August 31, 2026

By eCourts

The Honorable Heidi W. Currier, C.J.A.D.

Superior Court of New Jersey, Appellate Division

Richard J. Hughes Justice Complex

25 W. Market Street, 5th Floor, North Wing

Trenton, New Jersey 08625

**Re: IN THE MATTER OF 1219-25-0004.1 TDI250001
TRANSCONTINENTAL GAS PIPE LINE COMPANY, UTILITY
LICENSE, CHEESEQUAKE CREEK TRIBUTARY & RARITAN BAY,
SAYREVILLE BORO, MIDDLESEX COUNTY; App. Div. Docket
No. A-004004-25**

***On Appeal from the Final Agency Decision of the New
Jersey Tidelands Resource Council and the Department
of Environmental Protection***

Appellant's Motion to Accelerate this Appeal

Dear Chief Judge Currier:

On behalf of Clean Ocean Action, Inc. ("COA"), the Appellant in the above-captioned action, the undersigned attorney submits this letter brief in support of COA's Motion to Accelerate this appeal in accordance with Court Rule 2:9-2. Appellant file its Notice of Appeal and Case Information Statement on July 20, 2026, together with a copy of the final

agency action dated June 12, 2026. (001-020ama¹.) Appellants challenge the decisions of Respondent Tidelands Resource Council and Respondent New Jersey Department of Environmental Protection to issue a tidelands license to allow for the construction of a 23.5-mile natural gas pipeline through Raritan Bay. (009-020ama.)

As elaborated below, this appeal involves both the public interest and urgency, and therefore, we respectfully submit that acceleration is appropriate. See e.g., DeSimone v. Greater Englewood Hous. Corp. No. 1., 56 N.J. 428, 434 (1970) (acceleration is appropriate when “the litigation is of great public importance and urgently requires prompt final adjudication”). We respectfully submit accelerated review is needed here to allow justice to be delivered in a timely manner.

I. THIS APPEAL SHOULD BE ACCELERATED BECAUSE CONSTRUCTION IS TO BEGIN OCTOBER 1, 2026

This appeal pertains to the construction of a natural gas pipeline system by Respondent Transcontinental Gas Pipe Line Co. (“Respondent Transco”) called the Northeast Supply Enhancement or “NESE”, which is scheduled to begin October 1, 2026. On that date, Respondent Transco intends to begin construction of a large compression station (Compressor Station 206) in Franklin

¹ “ama” refers to the Appellant’s motion appendix, which is attached to the support Certification of Counsel.

Township, NJ, and of the Madison Loop—a three (3)-mile inland pipeline that runs through tributaries of Cheesequake Creek pursuant to the challenged tidelands license. (021-022ama at ¶¶ 2-3, 030ama, 034ama). The Madison Loop, which includes tidelands areas, will connect with the Raritan Loop, a 23.5-mile natural gas pipeline through Raritan Bay and New York waters before terminating off Long Island, where it will exclusively service New York customers. (022ama ¶ 4.) This construction schedule—announced on August 4th (Madison Loop) and August 6th (Compressor Station 206)—and project completion date of the fourth quarter of 2027, creates urgency for a review of the challenged tidelands license. (021-022ama at ¶¶ 2-3, 032ama ¶ 6.)

While Respondent Transco has not yet announced a start date for the construction of the Raritan Loop, its construction is imminent as well. (022ama ¶ 5.) Respondent Transco appears to have received all approvals necessary for the construction of the Raritan Loop. (022ama ¶ 5, 037-038ama.) Respondent Transco states that the NESE project (Raritan Loop included) will be fully operational in Q4 of 2027. (023ama.) Respondent Transco filings indicate that dredging for the Raritan Loop will take at least 187 days, which would have to begin by Q2 of 2027 (or earlier) for the NESE project to be operational by Q4 of 2027 as announced. (023ama ¶ 7, 040ama.)

Once construction begins, the environmental damage begins. Madison Loop construction begins on October 1 2026, and will cause significant impacts to Cheesequake Creek and its tributaries, which empty into Raritan Bay. (023ama ¶ 8.) The Madison Loop requires trenching and pipeline installation through tributaries and wetlands of Cheesequake Creek, which will damage and impair the functionality of these sensitive and biologically productive areas. (023ama ¶ 8.)

The construction of the Madison and Raritan Loops will cause over one (1) million cubic yards of toxin-laced sediments to be resuspended at levels which exceed New Jersey State Water Quality Standards (SWQS), including for mercury and copper. (023-024ama ¶ 9, 045ama.) The resuspension of sediments and pollutants, including long-buried industrial toxins (e.g., arsenic, lead, zinc and mercury) and organic compounds (e.g., PCBs, DDT and dioxins) will poison marine life in Raritan and Sandy Hook Bays and negatively impact fishing and shell fishing throughout New York/New Jersey Harbor. (024ama ¶ 10, 045ama.) Furthermore, sediments churned up during construction of the Madison and Raritan Loops will be dispersed by currents and tides over extensive areas and then settle onto the bay floor and bury benthic and demersal species, resulting in contamination of the food chain, mortality of eggs and other life stages, including winter flounder, as well as risks to

public health and loss of economic potentialities of local commercial fishermen. (024ama ¶ 11, 045ama) The Raritan Loop will be responsible for most of this damage, as the Raritan Loop will tear up 23.5-miles of bay bottom, destroying any benthic life and environs in its path and in its wake. (024ama ¶ 12, 042ama at Table 1.)

Of particular concern is pipeline construction activity within and proximate to a Superfund site known as the Raritan Bay Slag site. (025ama ¶ 13.) The site is contaminated with lead, arsenic and other toxic heavy metals that leached into Raritan Bay from bayfront metal smelting operations in the 1960s and 1970s. (025ama ¶ 13.) Lead is the highest priority hazard at the site because it absorbs into the human body easily, and can cause permanent neurological damage among other human health hazards. (025ama ¶ 13.) Accordingly, it is critical that the decision to issue the subject tidelands license—which was clearly unlawful—be reviewed before construction begins.

II. THE ACCELERATION OF THIS APPEAL IS SUPPORTED BY STRONG PUBLIC OPPOSITION TO THE SUBJECT LICENSE

There is significant public interest in this project, as demonstrated by the public outcry against the subject license application made to Respondent New Jersey Tidelands Resource Council ("Respondent TRC"). (025ama ¶ 14.) Prior to its meeting on the license application, Respondent TRC received 597

written comments, 591 (99%) of which were in opposition to the license. (025ama ¶ 14.) Due to significant public interest in the subject application, Respondent TRC twice rescheduled its meeting on the subject application and eventually held a meeting exclusively for the subject application. (025-026ama ¶ 15.) At its meeting on May 6, 2026, Respondent TRC heard from 45 speakers, 43 (96%) of whom voiced their opposition to the license. (026ama ¶ 16.) The opposition to license application came from various sources, including fishermen, boaters, environmentalist and residents, who voiced a common theme: this license would damage (not serve) the public interest of the residents of New Jersey, particularly those interests supported by Raritan Bay. (026ama ¶ 16.)

III. TWO UNIQUE FACTORS FURTHER SUPPORT ACCELERATION OF THIS APPEAL

There are two other unique factors supporting this Motion to Accelerate. First, a motion to accelerate has been filed in an appeal (docketed at A-004100-25) by Central Jersey Safe Energy Coalition et al. regarding the same final agency action. (Certification of Counsel, certified on August 31, 2026 ("Counsel Cert."), ¶ 5, 053ama) That appeal is based upon the same record and involves similar legal arguments, such as the failure of Respondent TRC to make a finding that the public interest supported the issuance of the subject license.

(Counsel Cert. ¶ 6, 055-057ama.) Therefore, we submit it would be appropriate for these two appeals to be considered on the same accelerated basis.

Secondly, the U.S. Court of Appeals for the Third Circuit has recently granted an expedited appeal to those same appellants (Central Jersey Safe Energy Coalition et al.) in a federal action challenging NJDEP's water quality certificates for this same project, NY/NJ Baykeeper et al v. NJDEP, Docket No. 26-1253 (3d Cir. 2026). (Counsel Cert. ¶ 7, 061-062ama.) There, the Third Circuit granted an expedited appeal under the federal Natural Gas Act ("NGA"), 15B U.S.C. 717r(d)(5).

(Counsel Cert. ¶ 8, 065ama.) The Energy Policy Act of 2005 amended the NGA to specifically require expedited judicial review of natural gas pipeline projects, which benefits the interests of project applicants and concerned community members. See 109 P.L. 58, 119 Stat. 594. The public policy belying this requirement would appear to support acceleration of the instant appeal, as it relates to the pending construction of a natural gas pipeline.

For all the above reasons, we respectfully submit that Appellant COA's Motion to Accelerate this appeal should be granted.

Respectfully submitted,

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By: 

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cc: Marie C. Hanley, Clerk of the Appellate Division (by eCourts)
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