

## COUNTY OF DELAWARE

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## COUNTY OF CHESTER

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Marian Moskowitz, Chair  
Josh Maxwell  
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April 13, 2020

*Via E-Mail to [RA-dcexemption@pa.gov](mailto:RA-dcexemption@pa.gov)*

Dennis M. Davin, Secretary  
Pennsylvania Department of Community  
and Economic Development  
Commonwealth Keystone Building  
400 North Street, 4th Floor  
Harrisburg, PA 17120-0225

*Via E-mail*

Dr. Rachel Levine, Secretary  
Pennsylvania Department of Health  
Health & Welfare Building  
8<sup>th</sup> Floor West  
625 Forster Street  
Harrisburg, PA 17120

re: **Waivers for Energy Transfer, LP capital projects**

Dear Secretary Davin and Secretary Levine:

The undersigned elected officials of Chester and Delaware Counties have closely monitored the progress of the Mariner East Pipeline (the "Pipeline"). Although we have broad concerns about the safe operation of the Pipeline and its impact on our counties, we write to call to your attention specific concerns associated with the current public health crisis arising from the COVID-19 virus.

### **Background**

As you know, on March 19, 2020, Governor Wolf ordered all non-life-sustaining businesses in Pennsylvania to close their physical locations (the "Emergency Order"). Life-sustaining businesses were permitted to remain open, but they must follow, at a minimum, the social

distancing practices and other mitigation measures defined by the Centers for Disease Control (the “CDC”) to protect workers and patrons.

On March 20<sup>th</sup>, Energy Transfer wrote directly to Governor Wolf, confirming that it would suspend construction of the Pipeline and related projects, in conformity with the Emergency Order.

- In Waiver Request No. 1, however, Energy Transfer sought confirmation that the Emergency Order did not apply to any work performed “to inspect and maintain the construction work spaces to ensure compliance with existing environmental permits, to maintain security at work spaces, and to address any safety concerns at work spaces as necessary.”
- In Waiver Request No. 2 Energy Transfer sought an additional ten days “to fully stabilize, secure, and demobilize some construction sites and ensure when ET and its contractors leave the site that no reasonable potential for harm to public safety exists at the site.”
- In Waiver Request Nos. 3 through 6 Energy Transfer sought permission to complete certain aspects of construction on certain segments of the Pipeline; only Waiver Requests Nos. 4 & 5 involve properties in Chester and/or Delaware Counties.

Energy Transfer applied to the Governor directly for a waiver, notwithstanding very clear instructions that waivers should be sought via application to the Department of Community and Economic Development (the “DCED”).

Energy Transfer assured the Governor that its employees and contractors would follow CDC and OSHA guidelines, and “would take all possible precautions to protect personal and public health and safety while working within the project right-of-way,” including but not limited to implementing social distancing practices, hygiene and infection control practices, and using personal protective equipment.

Energy Transfer was promptly granted the six waivers from the Emergency Order that permitted it to continue work on the Pipeline at seventeen locations across Pennsylvania.

### **The Purpose of This Letter**

The purpose of this correspondence is to communicate our immediate concerns with the operation of the Pipeline installation during the present public health crisis.

We have received multiple complaints from our citizens who have observed Pipeline workers not obeying the social-distancing rules, not just in performance of their work, but also in the informal activities on and around the work site. Individuals are closely congregating, traveling in common vehicles, not wearing masks, etc.

We are concerned that, if the non-compliant behavior of the Energy Transfer workers triggers a COVID “hot spot,” the burden on our health care system would impose a risk to our entire community. Our hospitals are already overburdened and essential materials are in short supply. The failure of the Energy Transfer workers to conform to the Governor’s mandates regarding social distancing, mask wearing, hand washing, and other critical behaviors, could add more patients to our hospitals’ case loads.

Similarly, the continued work on the Pipeline by its very nature poses an indisputable risk of an industrial accident, which also would strain our health care infrastructure.

Our request is simple. During the current public health crisis, when our residents are staying home to achieve the common good, no special exemption should be provided to Energy Transfer in its construction of the Pipeline. This project, and its owners and investors, should share in the general sacrifice, and receive no special treatment.

We have reviewed the April 2, 2020 submission made by the Clean Air Council to the DCED, in which the Clean Air Council makes a very convincing and thorough review of the exemptions sought by Energy Transfer.

We agree with the Clean Air Council that “there may be some extremely limited circumstances under which it could be safer for certain aspects of Energy Transfer’s pipeline work to continue than to be halted abruptly” and that “[o]ne or two of the waiver requests are in fact reasonable.”

We respectfully request that the DCED adopt the well-reasoned approach of the Clean Air Council and revise the exemptions granted to Energy Transfer to only those aspects of the Pipeline work that are absolutely necessary for public safety, and halt all other work as a threat to public health given the present pandemic.

Thank you for your very kind attention and consideration.

Respectfully,



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Brian Zidek, Chair  
Delaware County Council



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Marian Moskowitz, Chair  
Chester County Commissioners

cc: Nels Taber, Department of Environmental Protection  
Rosemary Chiavetta, Public Utility Commission  
Sam Robinson, Office of the Governor  
Joseph Oris Minott, Esquire, Executive Director, Clean Air Council