

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel

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December 21, 2015

Robert L. Megna  
Executive Director  
NYS Thruway Authority Canal Corporation  
200 Southern Boulevard  
P O. Box 189  
Albany, New York 12201-0189  
By First Class Mail and e-mail

Re: *Pilgrim Transportation Company of New York, Inc.; lead agency under SEQR for review of an application from Pilgrim Transportation of New York, Inc. to construct, operate and maintain two pipelines from Linden, New Jersey to Albany, New York*

Dear Mr. Megna:

The New York State Department of Environmental Conservation (Department or DEC) has reviewed your letter dated November 16, 2015, inquiring whether the Department has any interest in being lead agency pursuant to the State Environmental Quality Review Act (SEQR) in connection with the review of an application from Pilgrim Transportation of New York, Inc. (Pilgrim) to construct, operate and maintain two pipelines from Linden, New Jersey to Albany, New York (Project). Both the Department and NYSTA have significant interests and jurisdictional responsibilities over the Project. For this reason, as elaborated below, NYSTA and the Department should serve as co-lead agencies.

Pilgrim seeks permission from NYSTA to use and occupy approximately 116 miles of New York State Thruway (Thruway) right-of-way. Significant issues of law and policy are implicated with the proposed application to use and occupy the Thruway. Whether such use is consistent with, and permissible under, applicable State and federal laws and policies regulating highway use is an important issue to be resolved in connection with the Pilgrim application and NYSTA has considerable expertise and experience in this area. NYSTA's considerable expertise on this and other issues such



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as the safety of the travelling public, traffic impacts in general, and future needs of the Thruway will be critical in evaluating the impacts of the Project. NYSTA's expertise in operating and maintaining the Thruway and the implementation of State and Federal highway laws and policies will be an essential component of the environmental impact review of the Project.

At the same time, the SEQR process for the Project will be extensive and complex due to the myriad of issues likely to be raised, the number of involved State and local agencies, and the demonstrated public interest in the Project. The longitudinal occupation of the Thruway for 116 miles means that potential adverse environmental impacts are likely to be experienced over a wide area of the State. The Department has significant experience and expertise in managing complex SEQR proceedings, directing the preparation of comprehensive, regional environmental impact statements (EISs) and managing input from a multitude of stakeholders and involved agencies.

A preliminary review of the application indicates there is the potential for significant adverse environmental impacts associated with the construction and operation of the pipeline, including, but not limited to, impacts to hundreds of acres of forest, regulated water bodies and wetlands. The project as proposed would implicate the Department's permitting authority pursuant to the Environmental Conservation Law and the federal Clean Water Act. The preliminary draft environmental impact statement (DEIS)<sup>1</sup> that Pilgrim submitted to the Thruway Authority with its application states, for example, that there would be 232 crossings of regulated streams over the 116 mile occupation of the Thruway. Crossing methods would need to be carefully evaluated at each location. Project access in sensitive locations would also have to be appropriately managed. Best management practices would have to be developed to ensure the construction and operation of the Project is conducted in an appropriate manner. Other issues vetted during the SEQR public scoping process will also need to be addressed.

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<sup>1</sup> Procedurally, NYSTA and the Department would use Pilgrim's DEIS as an expanded environmental assessment to commence the full SEQR process that will include public scoping.

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For the foregoing reasons, the Department recommends that the two agencies share co-lead responsibility for the review of the Project. Please do not hesitate to call me if you have any questions regarding this letter.

Sincerely,



Thomas S. Berkman  
Acting Deputy Commissioner  
and General Counsel

cc: All potentially involved agencies (by First Class Mail only)