



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

12 Kyle Road
Merrimack, NH 03054-4528

May 24, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

I am writing to request the EPA's consideration for providing some much-needed clarity on the scope of states' Section 401 authority under the Clean Water Act (CWA). New Hampshire and other New England states have just weathered yet another winter challenged by volatile and spiking energy prices, grid reliability, reliance on imported LNG and an increased reliance on coal for our electricity needs. Gas supply constraints have made New England the world's most expensive power market. In January, New Hampshire burned more coal than the State of New York despite being 15 times smaller. We continue to be at the end of the energy pipeline and unable to build the capacity needed to meet our demands in part because other upstream states abusing the process and not allowing the infrastructure to even be considered here at the end of the line.

The permitting process is broken, and I respectfully request your assistance to help address the permitting process that has undermined attempts to expand needed natural gas infrastructure in the region. When used inappropriately, Section 401 of the Clean Water Act has become a political tool to frustrate pipeline development projects and to dictate national energy policy. Some states have manipulated the Section 401 water quality certification process to delay and even deny approvals for pipeline projects by putting off consideration of a project's application well beyond the one-year statutory deadline and by expanding the scope of review well beyond federal water quality standards. As the federal agency charged with authority under the Clean Water Act, the EPA must clarify and ensure that Section 401 is used as was originally intended.

In New Hampshire, we believe we have a rigorous process to evaluate if a proposed project meets environmental standards and is in the best interest of our citizens. As outlined in our state's 10-year Energy plan, the most critical infrastructure need is for natural gas capacity which can help incorporate intermittent renewable sources and provide New England with a much-needed reliable baseload. Without additional natural gas pipeline capacity, New England's economy will continue to be plagued by a host of concerns caused by capacity constraints.

I know siting infrastructure is challenging, and we relish the opportunity to consider such projects. The state appreciates the work the EPA does to protect our environment and I respectfully ask the EPA to issue guidance on the process to ensure the statutory requirements of timing, waiver and scope are being followed properly to ensure the protection of federal water quality standards. We hope the guidance can provide predictability and prevent any single state from dictating energy policy for all other states further up the supply line.

Sincerely,

Rep. Richard Barry, Chairman
Hillsborough- District 21

ST&F