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Congress of the United States
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IN EUROPE (U.S. HELSINKI COMMISSION)

January 8, 2021

Major General William H. Graham
Deputy Commanding General
Civil and Emergency Operations Division
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Mr. Thomas P. Smith
Chief
Operations and Regulatory Division
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Dear General Graham and Chief Smith,

I'm writing to express my concerns with the proposed Byhalia Connection pipeline, which would cut through one of the most vulnerable communities in Memphis and cross over its source of precious drinking water. I have had two productive meetings with Mr. Daniel Ward, Donny Davidson and Greg Williams in the Memphis District, but I am under the impression that guidance related to this matter will be coming from the U.S. Army Corps of Engineers (USACE) Headquarters.

It is my understanding that the proposed Byhalia Connection pipeline would cross the Davis Wellfield, a Wellhead Protection Zone in southwest Memphis, and pass near or through numerous Source Water Protection Areas in Mississippi. According to a letter submitted by several groups including the Southern Environmental Law Center, Tennessee Chapter Sierra Club, Protect Our Aquifer and the Memphis Community Against the Pipeline on December 15, 2020, "The plain language of NPW 12 does not allow for the construction of pipelines near drinking water intakes. Specifically, General Condition 7 of NPW 12 expressly prohibits

activities in proximity to public water supply intakes.”¹ Several communities in southwest Memphis are supplied drinking water from the Davis Wellfield, where a pipeline spill could be disastrous. While the Clean Water Act (CWA) authorizes the Corps to issue NPWs to streamline the permitting process for activities the Corps determines will have minimal adverse environmental effects, I struggle to see how the proposed Byhalia Connection fits that criteria.

Additionally, when looking at the pipeline’s proposed route, it is evident that the most direct path was not taken. As stated by Wyatt Price, a supervising land agent for the pipeline, the route is taking “a point of least resistance.”² For instance, in DeSoto County, Mississippi, the pipeline clearly avoids some of the more prominent, upper class neighborhoods. For communities that have already been unfairly burdened from decades of environmental injustice, it is troubling that an oil pipeline with severe potential consequences could be built without adequate environmental review.

Before the USACE makes a determination on the project’s eligibility for a NPW 12, I would appreciate the answers to the following questions:

1. Since this proposed pipeline crosses over a public water supply intake, how does it meet the criteria to operate under a NPW 12?
2. Furthermore, does the crossing over a public water supply intake mandate that the project obtain an individual permit under Section 404 of the CWA? If not, why not?
3. Would an additional environmental review be advantageous to the Corps to determine the potential impacts of an oil spill on the Memphis Sand Aquifer, especially the Davis Wellfield?
4. Has the USACE previously issued NPW 12’s to other pipeline projects that crossed over a city’s sole source of drinking water?
5. Has the USACE previously issued NPW 12’s to other pipeline projects that crossed through a city that was located in an active earthquake zone?
6. Does the USACE take environmental justice into consideration when deciding whether to issue a NPW 12?

Several of my constituents are rightly apprehensive about this proposed pipeline and have had little opportunity to submit their comments and concerns. They do not wish to see their invaluable resource, the Memphis Sand aquifer, be susceptible to a disastrous oil spill. They do not want to see their communities taken advantage of by an oil company interested in its bottom line. As my father’s chemistry teacher told him once, ““Water internal, water external, water eternal.” We must value our city’s drinking water and protect it at all costs. We must protect our communities.

I strongly urge you to not fast-track approval for this proposed pipeline and use due diligence in making your decision. The impacted citizens of this proposed pipeline deserve nothing less. I

¹ Southern Environmental Law Center, “RE: Byhalia Connection Pipeline - MVM-2019-206 and MVK-2019-473,” <https://mlk50.com/wp-content/uploads/2020/12/2020-12-15-Letter-to-USACE-District-Engineers.pdf>

² Watts, Micaela A. and Laura Testino, “Memphians question Plains All American about route for proposed Byhalia connection pipeline,” *Commercial Appeal*, <https://www.commercialappeal.com/story/news/2020/02/15/memphians-question-plains-all-american-byhalia-connection-pipeline/4761549002/>

appreciate your timely response and look forward to continuing to work together on this important issue.

As always, I remain,

Most sincerely,

A handwritten signature in blue ink that reads "Steve Cohen". The signature is written in a cursive, flowing style.

Steve Cohen
Member of Congress