

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Rover Pipeline, LLC

Docket No. CP15-93-000

REQUEST (“REQUEST” OR “MOTION”) FOR THE FEDERAL ENERGY REGULATORY COMMISSION (“FERC” OR “COMMISSION”) TO AMEND ITS DRAFT ENVIRONMENTAL IMPACT STATEMENT (“DEIS”) PRIOR TO ISSUANCE OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT (“FEIS”), AND TO INCLUDE CERTAIN CONDITIONS RE: ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (“CPCN”), IF ISSUED TO ROVER PIPELINE, LLC (“ROVER”)

CO20-1

Emens & Wolper Law Firm Co., LPA (“E&W”), on behalf of more than 200 landowners it represents who are directly affected by the above captioned proceeding (“Landowners”), hereby requests that FERC (1) amend the Rover DEIS issued February 19, 2016 as requested herein, and (2) if FERC decides to issue to Rover a CPCN, that the conditions set forth herein are satisfied prior to issuance or be included in the CPCN, as the context indicates.

Attached is a Memorandum in Support setting forth the reasons and bases for said amendments to the DEIS, and for certain conditions if Rover receives a CPCN.

A confidential and privileged list of Landowner clients is attached hereto as Exhibit A. This list of clients has been provided to Rover representatives, and is continuously being

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See the response to comment CO3-3 regarding the financial stability of the applicants and associated shippers.

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updated. E&W filed a Motion to Intervene as a representative of its then current and future Landowner clients, dated March 25, 2015. E&W's Motion to Intervene was unopposed by Rover.

Respectively submitted,

/s/ J. Richard Emens

J. Richard Emens

Beatrice E. Wolper

Emens & Wolper Law Firm Co., LPA

One Easton Oval, Suite 550

Columbus, Ohio 43219

Telephone: 614-414-0888

Fax: 614-414-0898

Email: demens@emenswolperlaw.com

bwolper@emenswolperlaw.com

Counsel for Landowners reflected on Exhibit A

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**MEMORANDUM IN SUPPORT OF REQUEST FOR FERC TO AMEND ITS DEIS
PRIOR TO ISSUANCE OF THE FEIS, AND TO INCLUDE CERTAIN CONDITIONS
RE: ITS CPCN, IF ISSUED TO ROVER**

Currently E&W represents more than 200 Landowners who own more than twenty thousand acres of Ohio land that will be impacted by the Rover pipelines project; 100 miles of pipelines will cross the properties of these Landowners. None of these Landowners want the pipelines on their properties. E&W, while a small law firm, has nearly 100 years of experience representing landowners and oil and gas industry clients. For the past 6 years, E&W has represented only landowners. Ohio's shale activity has demonstrated that many oil, gas, and pipeline companies that have come from outside Ohio have little or no regard for landowners and continually attempt to use said companies' overwhelming financial muscle to intimidate and take advantage of Ohio landowners. Rover exemplifies this approach.

In reviewing, analyzing, and approving any new proposed interstate natural gas pipeline project, the Commission is tasked with conducting two independent reviews of the proposed project: (1) the Commission conducts a review pursuant to the Commission's Statement of Policy for the Certification of New Interstate Natural Gas Pipeline Facilities ("Policy Statement");¹ and (2) the Commission conducts a review pursuant to the National Environmental Policy Act of 1969 ("NEPA").² Issues related to landowners are considered under both reviews. The Commission has stated it reviews landowner property rights issues under its Policy Statement review, as property rights issues are different in character from landowner environmental issues considered under NEPA.³

¹ Statement of Policy, 88 FERC ¶ 61,227, 1 (Sep. 15, 1999).

² *Id.* at 24; 42 U.S.C. §§ 4321-4370h (1970).

³ Statement of Policy, 88 FERC ¶ 61,227, 24 (Sep. 15, 1999).

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Below we set forth: (1) information relevant to the Commission's review of the Rover Project pursuant to its Policy Statement and Requests for conditions to be satisfied prior to/or included in a Rover CPCN if the Commission decides to issue a CPCN to Rover; and (2) comments and amendment requests for the Commission to include in issuing its FEIS for the Rover Project pursuant to its review under NEPA.

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I. THE COMMISSION SHOULD NOT APPROVE THE ROVER PROJECT PURSUANT TO ITS POLICY STATEMENT WITHOUT ADDITIONAL CONDITIONS

A. OVERVIEW OF FERC POLICY STATEMENT AND FERC'S TESTS FOR EVALUATING PROPOSED PIPELINE PROJECTS

On September 15, 1999, the Commission issued an updated Policy Statement.⁴ The Policy Statement recited it was issued to provide guidance to the industry and public as to how the Commission evaluates proposals for certifying new pipeline construction projects.⁵ Under the Policy Statement, the Commission has several tests it uses to evaluate new pipeline projects.

A threshold requirement is the pipeline must be prepared to financially support the project without relying on subsidization from existing customers (i.e. the project must be financially viable).⁶ Second, the applicant must show it has made efforts to eliminate or minimize any adverse effects the project might have on the existing customers of the pipeline proposing the project, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline.⁷

Under this second test, if the Commission finds there is an adverse effect on any of the three interests identified, the Commission will proceed to evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects (i.e. the Commission conducts a balancing test).⁸ Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis

⁴ *Id.* at 1.

⁵ *Id.* at 2.

⁶ *Id.* at 19.

⁷ *Id.* at 23.

⁸ *Id.* at 25.

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where other interests are considered.⁹ The Commission set forth several examples of the balancing test described above in the Policy Statement. The applicable and relevant example of the balancing test to the Rover pipeline project is where the applicant does not negotiate and is not able to acquire, all the necessary rights-of-way¹⁰ for the project:

“It may not be possible to acquire all the necessary right-of-way by negotiation. However, the company might minimize the effect of the project on landowners by acquiring as much right-of-way as possible. In that case, the applicant may be called upon to present some evidence of market demand, but under this sliding scale approach the benefits needed to be shown would be less than in a case where no land rights had been previously acquired by negotiation. For example, if an applicant had precedent agreements with multiple parties for most of the new capacity, that would be strong evidence of market demand and potential public benefits that could outweigh the inability to negotiate right-of-way agreements with some landowners. Similarly, a project to attach major new gas supplies to the interstate grid would have benefits that may outweigh the lack of some right-of-way agreements. A showing of significant public benefit would outweigh the modest use of federal eminent domain authority in this example.”¹¹

B. ROVER FAILS TO SATISFY SEVERAL TESTS

Based on the information we provide below, Rover fails to satisfy the tests set forth by the Commission in its Policy Statement. There are three major reasons Rover does not meet the tests: (1) The project may not be financially viable; (2) Rover has acquired only one-third of the necessary Ohio landowner easements, and has made little or no effort to acquire the remaining two-thirds; and (3) Rover, by implication, is asking Landowners to subsidize the pipeline.

1. Rover originally claimed to be fully subscribed. Then it changed that language and said it was *mostly* subscribed. Documents of the United States Securities and Exchange Commission (“SEC”) show that Rover, after filing its FERC application, took in a partner for 35% of the project, believed to be American Energy-Utica (“AEU”), which subsequently became

⁹ *Id.* at 25.

¹⁰ Rights-of-way and easements are used interchangeably in this Request/Motion.

¹¹ Statement of Policy, 88 FERC ¶ 61,227, 27 (Sep. 15, 1999).

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American Energy-Midstream, LLC (“AE-MidCo”), which subsequently changed its name to Traverse Midstream Partners, LLC (“Traverse Midstream”), or American Energy Partners, LP (“AELP”), an exploration and production company. While we have been unable to obtain the apparently confidential signed shipper’s contracts, obviously FERC has these contracts in its possession and can review them. It is expected these documents will show that AEU and a claimed “successor” entity, Ascent Resources, LLP (“Ascent”), is a major shipper expecting Rover to transport its natural gas. At the present time, there have been more than thirty mechanic’s liens filed against AEU/Ascent in Ohio on their shale wells by service and supply companies. When an oil and gas company has mechanic’s liens filed against it, it indicates the oil and gas company has major financial problems and is not paying its bills which can lead to bankruptcy. In bankruptcy, shipper’s contracts and other contracts, including oil and gas leases, can be set aside and terminated. The financial wherewithal of a shipper, expected to pay a significant portion of gas transportation costs, is a major issue. A well-respected business publication recently stated when referring to exploration and production companies, “[D]efault rates are going to pick up meaningfully. You are going to see a massive wave of bankruptcy filings.”¹²

It appears Rover Pipeline, LLC, the applicant for a CPCN, and E.T. Rover Pipeline, LLC, named the “transporter” on the precedent agreement filed with the SEC, are described in the June 23, 2015 Release of American Energy-Midstream, LLC, as subsidiaries of Energy Transfer Partners, LP (“ETP”). FERC requires transparency of relationships and no affiliate preferences between transporters and shippers.

¹² Ben Levisohn, “Energy Roundtable: 12 Oil Rebound Picks” BARRON’S, April 2, 2016 (<http://www.barrons.com/articles/four-experts-offer-picks-to-profit-as-oil-rebounds-1459570646>) (last visited April 9, 2016).

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Based on this information and downturn in the oil and gas industry, we request the Commission include the following conditions to be satisfied prior to issuance of a CPCN:

- a. Require all shippers on the Rover pipelines to be financially viable and able to meet their obligations;
- b. FERC has reviewed the relationships of all these related companies (Rover Pipeline LLC, E.T. Rover Pipelines, LLC, AEU, AE-MidCo, Transverse Midstream, AELP, Ascent, ETP, and Energy Transfer Equity, LP (“ETE”)) and made certain there are no violations of transparency nor affiliate preferences; and
- c. The Rover Project is financially viable.

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2. As of March 28, 2016, Rover has acquired only about one-third of the necessary Ohio landowner easements as evidenced by the following summary of Ohio Rover easements based on the official records of the listed Ohio County Recorder’s Offices:¹³

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See the response to comment CO15-3 regarding landowner easement agreements.

¹³ While Rover has not confirmed to E&W the total number of landowners impacted by its pipeline project, there appears to be an estimated 1,250 landowners affected in Ohio by the project, which means the typical Ohio landowner has about 1,600’ of pipeline on their property.

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State	County	Number of Recorded Easements	Estimated Miles Acquired	Miles of Easements	Estimated Percentage Acquired
Ohio	Ashland	8	2.09	33.03	6.33%
Ohio	Belmont	72	18.81	34.99	53.76%
Ohio	Carroll	45	11.76	26.23	44.82%
Ohio	Crawford	4	1.04	35.40	2.95%
Ohio	Defiance	14	3.66	14.88	24.58%
Ohio	Fulton	19	4.96	17.09	29.04%
Ohio	Hancock	10	2.61	11.16	23.41%
Ohio	Harrison	49	12.80	44.72	28.62%
Ohio	Henry	17	4.44	42.38	10.48%
Ohio	Jefferson	32	8.36	20.06	41.67%
Ohio	Monroe	65	16.98	46.29	36.68%
Ohio	Noble	9	2.35	3.27	71.90%
Ohio	Richland	14	3.66	35.03	10.44%
Ohio	Seneca	10	2.61	46.97	5.56%
Ohio	Stark	15	3.92	28.60	13.70%
Ohio	Tuscarawas	17	4.44	29.09	15.27%
Ohio	Wayne	19	4.96	55.78	8.90%
Ohio	Wood	51	13.32	45.26	29.44%
Total Ohio		470	122.78	470.23	26.11%

The key phrases in the “balancing test” quoted above on page 8 are “the company might minimize the effect of the project on landowners by *“acquiring as much rights-of-way as possible,”* “some landowners,” “some right of way agreements,” “*modest use of federal eminent domain authority,*” and use eminent domain against the last “few holdout landowners.”¹⁴

The Policy Statement states that as long as a pipeline project only has a “few holdout” landowners which were unable to reach negotiation for their right-of-way, the project could continue. The Policy Statement suggests the pipeline company attempt to acquire “*all of the necessary right-of-way by negotiation.*”¹⁵ If the Commission wanted to allow pipeline companies’ projects to be certified with only acquiring a small number of right-of-way

¹⁴ Statement of Policy, 88 FERC ¶ 61,227, 27 (Sep. 15, 1999) (emphasis added).

¹⁵ *Id.* (emphasis added).

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agreements, it would have said so. In contrast, the Commission clearly stated that the company should attempt to acquire all of the rights-of-way “by negotiation.” The very term negotiation means to have a mutual discussion aiming at agreement, not a one-sided cram-down of a fractional value.

Rover has made minimal efforts to acquire rights-of-way from landowners in Ohio and the efforts made have been unfair and unrealistic regarding easement provisions and compensation. For more information see our discussion at II.E.13 herein. Instead, Rover has threatened on numerous occasions that Rover expects to use eminent domain to acquire the necessary rights-of-way it needs for this project. In recent discussions between E&W and Rover, Rover stated it was now planning to sue 500-600 landowners in Ohio for eminent domain. Obviously, planning to sue the majority or even 30% of total landowners affected by this project is not “modest” use of eminent domain, or a sign Rover is trying avoid eminent domain. FERC’s Policy Statement contemplates modest use of federal eminent domain, not use of eminent domain against hundreds of Ohio landowners.

We request the Commission include the following condition to be satisfied prior to issuance of a CPCN:

- a. Thirty days prior to the date Rover anticipates FERC issuing Rover a CPCN, Rover shall file with the Secretary proof, including copies of signed easements, that Rover has obtained signed easements that cover and include 90% of the landowner property in Ohio necessary for the Rover Project.

CO20-3

3. By implication, Rover is asking the Landowners with property crossed by the pipelines to subsidize Rover’s project. A threshold requirement is that Rover’s pipeline project be financially viable without relying on its existing customers subsidizing the project. Rover

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See the response to comment CO11-1 regarding landowner negotiations and eminent domain.

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has stated to E&W that if and only if it doesn't have to pay what landowners believe is a fair, reasonable and equitable price for its right-of-way, the project will remain financially viable --- clearly implying that if Rover has to pay landowners a fair price, its existing customers must subsidize the project. It is inconceivable that the Commission would allow a pipeline company to state the project is economically viable only if the company pays a small percentage of what is a fair, reasonable and equitable price for landowner right-of-ways---thus not having to charge its existing customers. Logically, this could mean that if the company could steal the right-of-ways for \$.10 per foot, the threshold requirement would be met. Obviously, this was not the intent of the Commission. Rover has the ability to have a "financially viable" project *including* payment of a fair, reasonable and equitable price for *all* the rights-of-ways *and* without its existing customers subsidizing the project if Rover lowers its required unconscionable expectation of profit! But, as the Commission has stated, "Landowners should not be subject to eminent domain for projects that are not financially viable."¹⁶ Thus, the applicant company, Rover, must be prepared to fund the project without subsidization from landowners.

Rover executives implied that Rover is planning to make up the difference between costs and its position of being "financially viable" from landowners for its pipeline project.¹⁷ Rover stated to E&W on August 11, 2015 that if Rover compensates landowners their fair and adequate compensation (above \$100 per foot of right-of-way) the Rover Project would be unprofitable and that Rover had to provide its investors with a 13.5% to 15% return; an untrue statement based on SEC documents. Rover's pipelines are slated to impact some of the most valuable farmland in the United States, with some land valued at over \$20,000 per acre. Based on appraisals by highly respected appraisers, Rover should compensate Ohio landowners well above \$100 per foot of

¹⁶ *Id.* at 20.

¹⁷ Several Rover officers and other personnel came to E&W offices August 11, 2015 to deliver this message.

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right-of-way to fairly and adequately compensate them. Based on SEC documents and information obtained from independent certified public accountants, Rover would still be highly profitable if it paid at least \$150 per foot of right-of-way to Ohio landowners (Exhibit B).¹⁸

However, despite the facts and this information being provided to Rover, Rover has refused to offer landowners fair and adequate compensation.

Rover's implied subsidy from Ohio Landowners is reflected in its public budget information disclosed to the Commission. In comparing Rover's budget to the other recent FERC regulated interstate pipeline projects in Ohio, Rover has clearly under budgeted for its rights-of-way acquisition and damage budget. In Ohio, the Rover Project is just one of four major FERC regulated interstate natural gas pipeline projects approved or pending approval in the last two years. Below is a table comparing Rover's budget to these other project budgets.

In reviewing this table, please note that the Rover Project is by far the largest project (in terms of damages to land, number of rights-of-way, size of pipes and facilities, miles of pipelines, surface facilities, etc.) slated to come through Ohio. Rover is nearly three times the size of the Nexus Pipeline project, nearly six times the size of the Leach XPress project, and nearly ten times the size of the Texas Eastern OPEN project. The Nexus Pipeline project is smaller, though somewhat comparable, to the Rover Project, based on the size of pipe, width of easement, timing of the project, and location of the project in Ohio. Both Rover and Nexus are slated to primarily impact lands located in northern Ohio. The Texas Eastern OPEN Pipeline project impacts and the Leach XPress project will impact, land located in southeastern Ohio, where there is little valuable agricultural land and the land is much less valuable overall.

¹⁸ This memorandum was prepared at E&W's request and provided to Rover.

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Comparison of Rover Budget to Other Ohio FERC Projects				
	Rover	Nexus	Texas Eastern OPEN	Leach XPress
Size of Pipe(s)	Two 42" Pipes	One 36" Pipe	One 30" Pipe	One 36" Pipe
Total Miles of Pipes	713 Miles	255 Miles	76 Miles	126.9 Miles New Pipe
	3,764,640 feet	1,346,400 feet	401,280 feet	670,032 feet
	\$124,132,949	\$165,733,166	\$29,416,646	\$35,077,855.00
Right-of-Way Acquisition and Damages Budget	\$32.97 per foot	\$123.09 per foot	\$73.30 per foot	\$71 per foot
	<u>3.04% of Budget</u>	<u>7.9% of Budget</u>	<u>6.28% of Budget</u>	<u>2.31% of Budget</u>
	\$259,682,920	\$298,988,168	\$32,009,380	\$227,192,486
Contingency Budget	\$68.98 per foot	\$222.06 per foot	\$79.77 per foot	\$330 per foot
	6.36% of Budget	14.3% of Budget	6.83% of Budget	14.97% of Budget
	\$4,082,221,491	\$2,095,267,444	\$468,487,746	\$1,518,041,748
Total Project Budget	\$1,084.35 per foot	\$1,556.20 per foot	\$1,167.48 per foot	\$1,796.93 per foot

As evidenced by the table above, in comparing the different pipeline projects it is undeniable that Rover is seeking a subsidy-like contribution for its pipelines project from Ohio landowners. Rover has budgeted substantially less in each and every category listed above, despite being the largest project by far and impacting much more highly valuable, prime farmland with larger pipes, more pipes, and wider easements.

Most importantly, in regards to the rights-of-way and damage budgets, Rover has budgeted *less than one-half* the per foot price than each of the other projects. Compared to Nexus, which traverses similar land, Rover has budgeted *only one-fourth* of the Nexus budget for rights-of-way and damages. Moreover, Rover has budgeted *about one-third* as much per foot for contingencies as compared to the Nexus budget, even though Rover is three times as large of a project. Rover's rights-of-way acquisition / contingency budgets clearly indicate Rover is attempting to convince FERC to require Ohio Landowners to fund its project and that Rover,

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from the beginning of the Rover Project, is primarily relying on eminent domain to acquire easements.

This information demonstrates that Rover has not satisfied the Commission's threshold test under the Policy Statement that the project must be financially viable. It is clear that Rover has made minimal or no efforts to negotiate fair and adequate compensation to Landowners for easements on their property. It is also well documented that Rover has less than one-third of the necessary Ohio easements to construct the pipeline and that Rover's intentions and actions from the beginning of the project have been to sue Ohio Landowners and cram down eminent domain on Ohio Landowners. We cannot believe that the staff of FERC, nor its Commissioners, believes this was the intent of Congress in enacting the Natural Gas Act.

We request the Commission include the following conditions to be satisfied prior to issuance of a CPCN:

- a. Rover has demonstrated financial viability of the project without what amounts to a subsidy from Ohio landowners; and
- b. Rover must have negotiated in good faith and offered fair and reasonable easement terms and full and adequate compensation to landowners, requiring Rover to acquire more than 90% of all the necessary rights-of-way.

CO20-4

II. COMMENTS SPECIFICALLY RELATED TO FERC'S DEIS

Below we set forth our specific requests and amendments directed at the Commissions DEIS for the Rover Pipeline project. This section first describes five central issues of overriding importance that we request FERC should consider; then follows the DEIS outline by providing information and making specific requests for amendments to the DEIS.

[16]

CO20-4

See the response to comment CO9-1 regarding agricultural land mitigation and monitoring. See the response to comment CO9-2 regarding drain tile impacts and repairs.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-4
cont'd

FIVE MAJOR CONCERNS

ONE. Impact to Agricultural Land and Soils. The soils on the Rover pipelines route will be irreparably forever impacted unless Rover implements the proper soil conservation and preservation practices. Rover's Agricultural Impact Mitigation Plan ("AIMP") does not contain sufficient provisions. Rover, landowners, and local drain tile contractors must agree on drain tile plans that cover pre-construction, construction, post-construction, and operations of the pipelines, and the plans must be timely and properly implemented.

Ohio landowner Rob Rettig testified at the Hamler, Ohio FERC scoping meeting on March 21, 2016 (Exhibit D)¹⁹:

"The farms that we operate that lie in the path of the proposed pipeline are extremely productive. We have repeatedly been told that there is an expectation of slowed productivity but will return to normal in like three years. Our past experience with evasive activities of these clay-based soils would indicate otherwise. Experience also would indicate that the long-term damage to soil structure will likely be predicated by soil and weather conditions at the time of the installation. We will be able to effectively measure productivity in perpetuity with our geo-reference spatial equipment. If Rover and others are convinced that one hundred percent productivity is the expectation, I would suggest commitment to a long-term compensation agreement based upon this easily measured productivity.

It alarmingly appears that Rover is using as its baseline for some negotiations on eminent domain cases -- data based on less productive and differently structured soil. Other pipeline projects have noted three times the amount of per foot procurement of access rights. Access rights procurement is a minute portion of Rover's overall effort.

We've also been -- by Rover's reluctance to accept the drainage mediation plans as recommended by its agent, Land Stewards and our local contractors. If these remediation efforts were handled incorrectly, the cost to the individual landowner could be tens of thousands of dollars on an annual loss basis. Of course and off-putting factor is the fact that the landowners and landowner reps have invested hundreds of hours of individual time and hundreds of miles of travel to meetings that of course could have been otherwise invested."

¹⁹ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Rob Rettig, 2-4, No. CP15-93-000, (Mar. 21, 2016).

COMPANIES AND ORGANIZATIONS

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CO20-4
cont'd (For expanded discussions and recommendations, see II.A.3, I.I.E.1, I.I.E.3, I.I.E.5, I.I.E.15, and I.I.E.16 herein).

CO20-5 **TWO. Easement Terms, Including Drainage and Drain Tile Repair.** Easement terms and provisions are vital to landowners. FERC can make recommendations to Rover, but once a CPCN is issued, landowners are at the mercy of Rover with the landowners' only recourse being to sue Rover if it does not perform in accordance with plans. Pre-pipeline drainage and tile planning for installation and operation, and post-pipeline construction drainage and tile repair are vital provisions of easement terms for every affected property. Where does a landowner get the money to sue a giant corporation and what chance does a landowner have when litigation drags on for years? Attempts to obtain fair and complete easement terms with Rover have been ignored or delayed for nearly a year. Widow Phyllis Lybarger's situation is typical:

Mrs. Phyllis Lybarger is an elderly widow who more than ten months ago accepted the inevitability of Rover's two 42-inch pipelines easements coming through her property within 100 feet of a home and through her barn. Mrs. Lybarger desperately needed money and asked E&W to pursue settlement with Rover on her behalf. E&W advised Mrs. Lybarger that the terms of the easement and the dollar compensation she would be agreeing to, were less than adequate and less than she would likely receive if she waited. Mrs. Lybarger said she understood that, but she wanted the money. In September, 2015 Rover agreed to pay \$70 per foot for the easement, less than one half what Mrs. Lybarger understood to be adequate money for the easement, plus payment for the barn if it were torn down prior to December 31, 2015. Mrs. Lybarger immediately had the barn torn down, and easement language was provided to Rover, but Rover would not pay for the barn. E & W understood the easement language was acceptable to Rover, but Rover would not pay.

Finally, out of desperation, E&W flew to Houston and met with Rover on February 2, 2016 to try and confirm Mrs. Lybarger's easement language so she could be paid, and to make progress on easement language for more than 200 other landowner clients which had been pending since July, 2015. The first subject discussed in the February 2, 2016 Houston meeting was Mrs. Lybarger's easement language. E&W understood agreement on her easement language was confirmed and emailed that language to Rover on February 4, 2016. No response

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CO20-5 See the response to comment CO9-2 regarding drain tile impacts and repairs. See the response to CO15-9 regarding the FERC's compliance monitoring program and the FERC's authority to enforce an applicant to adhere to its proposed plans and mitigation. See the response to comment CO11-1 regarding landowner negotiations.

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CO20-5
cont'd

has been received from Rover even though E&W has followed up with requests on behalf of Mrs. Lybarger. Mrs. Lybarger still does not have the money she needs.

(For expanded discussions and recommendations, see I.I.C.1, I.I.E.13, and I.I.E.16 herein).

CO20-6

THREE. Property Value. Rover refuses to recognize the values of Ohio agricultural land and provide adequate compensation for easements. The few efforts it has made to acquire easements are at absurdly low prices. Based on appraisals of highly respected appraisers, Ohio easement compensation on much of the Rover pipeline route should be at least \$150 per foot; compensation for other Ohio pipeline easements within the past 18 months for smaller in diameter, single pipelines traversing less valuable Ohio land has been \$140 to more than \$160 per foot. Rover, however, is offering only \$60 per foot compensation for easements for its two 42-inch pipelines and \$42.86 per foot compensation for easements for its single 42-inch pipeline, accompanied by the clear threat of suing landowners and taking the property by eminent domain (Exhibit E).²⁰ (For expanded discussions and recommendations, see I.I.E.2, I.I.E.14, and I.I.E.16 herein).

CO20-7

FOUR. Landowner Treatment by Rover. From the beginning of Rover's lack of involvement with landowners in the summer of 2014, it has been apparent that Rover either ignored landowners or treated them as a nuisance and that Rover expected from the beginning to use eminent domain to acquire most of the necessary easements for the pipelines.

²⁰ Letter from Rover Pipeline, LLC to Stakeholders (Feb. 26, 2016).

CO20-6

See the response to comment CO11-1 regarding landowner negotiations and eminent domain.

CO20-7

The commentors' statement regarding the poor treatment of landowners by Rover is noted.

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-7
cont'd

Ohio landowner Ben Polasek aptly described Rover's approach to landowners at the Hamler, Ohio FERC scoping meeting on March 21, 2016 (Exhibit C)²¹:

"Rover is absolutely refusing to negotiate in good faith. It is currently my understanding that less than thirty percent of the right-of-ways have been secured by Rover for this project. While I understand the limited use of eminent domain is necessary once a Certificate of Necessity is issued, that will help obtain a few holdouts that are not negotiating. However, it seems completely unreasonable for Rover to think that they can acquire up to seventy percent of the land needed for a project by eminent domain, especially if landowners have come to negotiate and Rover is refusing. Clearly, this shows Rover's complete disregard for the landowners and the effects that this project is going to have on them.

Instead of communicating and negotiating in good faith, Rover is sending threatening letters, called and asked to stop using the attorneys because it's too complicated for them and failed to provide the information we are requesting to help us negotiate fairly with them. I ask FERC to require Rover to negotiate in good faith and to prevent Rover from using eminent domain or issuing a certificate until we can clearly establish that they have attempted to negotiate with landowners in good faith. FERC should also require that a significant percentage of the land be obtained with negotiated agreements prior to allowing Rover to use eminent domain to obtain the remaining land needed."

(For expanded discussions and recommendations, see I.I.E.5 and I.I.E.13 herein).

CO20-8

FIVE. Massive Project. The Rover Project is a massive pipelines project; claimed by Rover to be the largest ever natural gas pipelines project in Ohio. The Rover Project involves installing two 42-inch in diameter pipelines (20 feet apart) for hundreds of miles, plus installing all the other pipelines and facilities for more than 100 miles, directly impacting thousands of acres of Ohio landowner property and may affect an additional tens of thousands of acres of Ohio land. The DEIS mentions "dual pipelines" only 20 times, in all 450 pages, and continually refers to "the pipeline." Early in the FEIS Executive Summary ("ES") the Rover Project should be described using words such as "huge" or "massive" and state it is the largest natural gas

²¹ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 7-8, No. CP15-93-000 (Mar. 21, 2016).

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CO20-8

The terms "massive" and "huge" are subjective terms and do not relay scientific environmental information to the reader. We have assessed the impact of the Project throughout the EIS, and have stated the size of the pipe as well as the length in various locations, where appropriate. The EIS uses the appropriate references to the pipelines, a pipeline, a pipeline route, and dual pipelines.

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CO20-8
cont'd | pipelines project ever proposed for Ohio; throughout the FEIS, the word “pipelines” and, where appropriate, “dual pipelines” should be utilized, rather than just “pipeline.”

CO20-9 | **SPECIFIC REQUESTS AND AMENDMENTS**

Review of the DEIS informs the bases for the following requested amendments, deletions, additions, etc. Section and page references are to the DEIS. E&W recognizes and appreciates the thousands of hours that the FERC staff and Cardno Entrix (“Cardno”) personnel must have spent in preparing the 450-page DEIS and compiling the additional 1,376 pages of appendices. On behalf of hundreds of Landowners and for the reasons stated, the following comments, recommendations, and requests are respectfully submitted:

A. COMMENTS AND REQUESTS RELATED TO THE ES (PAGES ES-1 TO ES-12)

1. Amend the first sentence of the first paragraph of page ES-1 to include language that in addition to the FERC staff, the DEIS was prepared by Cardno or other affiliates of Cardno,²² an environmental consulting firm with its home office in Fortitude Valley Old, Australia,²³ and by TRC, a national energy and consulting firm based in Lowell, Massachusetts.²⁴ It is important for the FERC Commissioners and the public to know that FERC has outsourced considerable amounts of the Rover DEIS to for-profit entities, that Rover and/or its affiliates are paying for and/or reimbursing FERC for these services, and that Cardno, TRC, or one or more of their affiliates may have previously been employed by Rover affiliates ETE and/or ETP to perform services and receive compensation.

²² Advice to E&W from FERC staff and Cardno employee at the Hamler, Ohio FERC scoping meeting March 21, 2016.

²³ See generally CARDNO, <http://www.cardno.com/en-au/Pages/Home.aspx> (last visited April 11, 2016).

²⁴ See generally TRC, <http://www.trcsolutions.com/> (last visited April 11, 2016).

CO20-9 We use third-party contractors, where appropriate, to assist with the NEPA process and development of NEPA documents. Third-party contractors work under the sole direction and control of the FERC staff, not the applicant. Cardno is the third-party contractor that was selected by the FERC. TRC is a consultant used by the applicant for the preparation of its application materials and had no role in the preparation of the EIS.

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CO20-10 2. Delete the term “stranded” from the last paragraph on page ES-1 and other places it appears, as the word “stranded” misrepresents Rover’s purpose and creates the impression that Marcellus and Utica gas would not be produced without the Rover pipelines. As noted in the DEIS, there are numerous other pipelines which will transport such gas. There are also additional pipelines not listed in the DEIS to transport such gas; one example being the Rockies Express pipeline, installed across Ohio with an original purpose to transport natural gas *from* the Rocky Mountain area *to* the Midwest and East, now retrofitted to transport gas *to* the Southwest and West *from* Ohio and the Appalachian area.

CO20-11 3. Amend “Geology and Soils” on pages ES-3 and ES-4 to:
a. Include as major effects of construction:
i. Significant soil compaction, causing reduced yields; and
ii. Flooding of thousands of acres of lands, unless pre-construction, construction, and post-construction drain tile plans are properly and timely implemented.

CO20-12 b. Delete the sentence “Most impacts on soil would be temporary and short-term,” and amend it to say “Most impacts on soil will likely be long-term, if not permanent, and reduce yields.”

CO20-13 c. Delete the last sentence on page ES-4 which states:
“With Rover’s implementation of its CMPs and Panhandle and Trunkline’s implementation of FERC’s Plan, as well as our additional recommendations, we conclude that impacts on geological and soil resources would be adequately minimized.”
unless additional conditions as set forth hereafter are included in the FEIS.

[22]

CO20-10 The use of the term “stranded” in the EIS is appropriate. An assessment and discussion of existing pipeline transportation system alternatives can be found in section 3.2 of the EIS.

CO20-11 As discussed in section 4.2.5, Rover would use special techniques and methods to mitigate compaction associated with its Project. Based on Rover’s AIMP’s and our recommendations regarding drain tiles, we concluded the impacts on geology and soils would be appropriately mitigated to less than significant levels. Therefore, we conclude that the requested additions to the document are not needed.

CO20-12 Based on assessments throughout the EIS, the conclusion stated in the EIS regarding temporary and short-term impacts on soils is appropriate. As defined in section 4.0, temporary impacts would be limited to the period of construction and short-term impacts would continue for up to 3 years following construction.

CO20-13 The commentors’ request is noted.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-14 d. Recite that long term negative impacts on soil are to be anticipated. There is substantial evidence that soil compaction results from having heavy equipment on agricultural land, especially during wet weather. For more information see Rutgers study of “Assessment of Soil Disturbance on Farmland” (Exhibit F).²⁵ Rover’s application does not include size and weight information of Rover’s equipment to be utilized, but research indicates that Rover’s equipment will be much heavier than typical farm equipment; thus the compaction and crop yield reduction will be much greater than is indicated in the DEIS. See statements of Huddle (Exhibit G),²⁶ Rettig (Exhibit D),²⁷ McNaull (Exhibit H),²⁸ and Polasek (Exhibit C).²⁹

CO20-15 4. Amend “Land Use and Visual Resources” on pages ES-6 and ES-7 so the first sentence reads:

“Construction of the proposed Projects would directly impact a total of 9,998.3 acres, and may affect an additional tens of thousands of Ohio acres if pre-construction, construction, and post-construction drain tile plans are not agreed to by Rover, landowners, and local drain tile contractors, and then timely and properly implemented by local drain tile contractors.”

For more information regarding the reasons for this amendment, see our discussion at I.I.E.2 herein.

CO20-16 5. Amend “Socioeconomics” on page ES-7 and ES-8 to:

a. Add the following sentence:

²⁵ Daniel Gimenez et. al, “Assessment of Soil Disturbance on Farmland” RUTGERS NEW JERSEY AGRICULTURAL EXPERIMENTATION STATION, pg. 1-7, April 2010.

²⁶ Comments of Hamler, Ohio FERC Public Meeting for Comments, Darla Huddle, No. CP15-93-000 (Mar. 21, 2016).

²⁷ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Rob Rettig, 2-3, No. CP15-93-000 (Mar. 21, 2016).

²⁸ Comments of Landowners James McNaull and Greg McNaull, Re: Rover Pipelines (Nov. 13, 2015).

²⁹ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 2-6, 9, 12-14, No. CP15-93-000 (Mar. 21, 2016).

[23]

CO20-14 Section 4.2.5 discusses the potential impacts on soils due to compaction as well as Rover’s proposed mitigation measures. Based on Rover’s mitigation measures, we conclude that impacts on soils would not be significant.

CO20-15 As discussed in Rover’s AIMP’s and section 4.8.4 of the EIS, Rover would be required to repair all drain tiles damaged by construction of the Project. All drain tile repairs would be completed within 45 days of the pipeline being laid in the trench. Mitigation measures beyond what is listed in the EIS would be negotiated between Rover and the landowner during easement negotiations. See the response to comment CO14-3 regarding drain tile plans.

CO20-16 We disagree. Landowner apprehension of a pipeline incident is not a socioeconomic topic. Pipeline safety is addressed in section 4.12 of the EIS.

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CO20-16 cont'd	<p>“Landowners are fearful of explosions, leakage of natural gas, fire, and other incidents damaging their property and killing and/or injuring their families.”</p>
CO20-17	<p>b. Delete the last sentence of the second paragraph which currently reads</p> <p>“Based on our experience, we are not aware of instances where an interstate natural gas pipeline has resulted in impacts on property values.”</p> <p>This language is apparently included solely to benefit Rover in its planned eminent domain litigation against landowners, which is inconsistent with FERC’s stated position that it will not be an advocate for the Rover Project.</p> <p>For more information see our discussion at II.E.19 herein.</p>
CO20-18	<p>6. Amend “Reliability and Safety” on pages ES-9 and ES-10 to say specifically that any “emergency response plan” would include prompt notification of all landowners that might be affected by any explosions, leakage of natural gas, fire, or other incidents.</p>
CO20-19	<p>7. Amend “Cumulative Impacts” on page ES-10 by deleting “stranded” for the reasons set forth at II.A.2 herein.</p>
CO20-20	<p>8. Amend “Alternatives Considered” on page ES-11 to say that there are at least 16 landowner requested route changes which have not been responded to or revised by Rover, and recommend the requested route changes be implemented.</p>
CO20-21	<p>9. Amend “Major Conclusions” on pages ES-11 and ES-12 so the first sentence reads:</p> <p>“We determine that construction and operation of the Projects would result in limited adverse environmental impacts, with the exception of impacts on forested and agricultural land.”</p>
CO20-22	<p>B. 1.0 COMMENTS AND REQUESTS RELATED TO “INTRODUCTION” (PAGES 1-1 TO 1-18)</p> <p>1. Project Purpose and Need” (section 1.1 on page 1-2) should be amended to delete “stranded” from the first paragraph of for the reasons at II.A.2 herein.</p>

[24]

CO20-17 The statement is appropriate as it provides the public with information based on the FERC’s knowledge and experience regarding pipeline construction and property values.

CO20-18 We disagree. The Emergency Response Plan would be developed in accordance with DOT regulations. Section 4.12.1 lists the general requirements of the emergency response plan, including communications with local fire, police, and public officials.

CO20-19 See the response to comment CO20-10.

CO20-20 The executive summary and section 3.4.3 discuss route variations requested by landowners. Appendix I and table 3.4.3-1 include landowner identified variations requested prior to the draft EIS, our analysis, and our conclusions. Table 3.4.3-3 includes landowner requested variations received after the draft EIS, our analysis, and our conclusions.

CO20-21 The statements in the executive summary are appropriate. Section 4.8.4 of the EIS discusses our detailed analysis of impacts on agricultural lands, including mitigation measures, and provides the basis for our conclusions.

CO20-22 See the response to comment CO20-10 regarding the use of the term “stranded.”

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CO20-23 **C. 2.0 COMMENTS AND REQUESTS RELATED TO “PROJECT DESCRIPTION” (PAGES 2-1 TO 2-40)**

1. Add at the end of the first paragraph below Table 2.2-1 on page 2-11 the sentence

“Tens of thousands of additional acres may be disturbed long-term if pre-construction, construction, and post-construction drain tile plans are not agreed to by Rover, landowners, and local drain tile contractors, and then timely and properly implemented by local drain tile contractors.”

- CO20-24
2. Amend “Trenching” on pages 2-23 and 2-24 to signify that without proper and timely agreement of Rover, landowners, and local drain tile contractors on pre-construction, construction, and post-construction drainage and drain tile plans and timely and proper implementation of such plans by local drain tile contractors, flooding of thousands of additional acres of Ohio land will likely result.

- CO20-25
3. Winter construction (section 2.3.2.5 on page 2-32) will likely result in major problems. As the DEIS states, based on Rover’s schedule, Rover may be constructing its pipelines during winter 2016. Rover has developed a Winter Construction Plan to address specialized methods and procedures that would be used to protect resources during the winter season. Given this schedule and the likelihood of winter construction, Ohio landowners are especially concerned that appropriate depths of topsoil will not be stripped and saved as the soil will be frozen and the highly erodible soils the FERC staff has identified will be negatively impacted during spring rains. See statements of Polasek (Exhibit C).³⁰

- CO20-26
4. “Post-Construction Monitoring” (section 2.5.5 on pages 2-37 and 2-38) as described is not adequate. Please see our comments and proposed amendments at ILE.15 herein regarding section 4.8.4.1.

³⁰ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 1-5, 9-14, No. CP15-93-000 (Mar. 21, 2016).

CO20-23 Section 2.0 of the EIS describes the applicant’s Project, facilities, and construction techniques that would be used. A complete description and analysis of the impacts that would result from the Project is provided in section 4.0 of the EIS. Section 2.0 is not intended to describe the suite of impacts or analyze whether additional mitigation measures are necessary. See the response to comment CO20-15 regarding drain tile repairs. See the response to comment CO14-3 regarding drain tile plans.

CO20-24 See the response to comment CO20-23 regarding section 2.0 of the EIS. See also the response to comment CO20-15 regarding drain tile repairs. See the response to comment CO14-3 regarding drain tile plans.

CO20-25 See the response to comment CO20-23 regarding section 2.0 of the EIS. Rover would be required to follow its CMPs, including its AIMP. Environmental inspectors and the FERC’s compliance monitors would ensure that Rover implements all measures outlined in its CMPs.

CO20-26 See the response to comment CO20-23 regarding section 2.0 of the EIS. The commentors’ statement regarding post-construction monitoring is noted.

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- CO20-27 **D. 3.0 COMMENTS AND REQUESTS RELATED TO “ALTERNATIVES” (PAGES 3-1 TO 3-50)**
1. “Alternatives” (section 3.0 on pages 3-1 and 3-2) should be amended so impacts on agriculture on page 3-2 are recognized as having long-term impacts, rather than short-term impacts. Please see the evidence provided herein showing the long-term adverse effects this pipeline will have on Ohio farmland.
- CO20-28
2. “No-Alternative Action” (section 3.1 on page 3-2 and 3-3) should be amended to delete “stranded” from the first paragraph on page 3-2 of for the reasons at II.A.2 herein.
- CO20-29 **E. 4.0 COMMENTS AND REQUESTS RELATED TO “ENVIRONMENTAL ANALYSIS” (PAGES 4-1 TO 4-282)**
1. The DEIS focus on soil compaction (beginning in section 4.2.2 on page 4-34) needs to be emphasized much more than is stated in section 4.2.2.3. With two 42-inch pipelines within 20 feet of each other, the soil compaction and disturbance from heavy equipment and the tamping down of the soil taken from the areas to be filled by pipe will reduce crop yields for many, many years, and likely forever.
- Landowners’ questions to Rover in 2014 about “Where would the excess soil from installation of two 42-inch pipelines be taken? Off the premises, or?” were answered “There won’t be any excess soil.” Thus, the tremendous compaction is obvious; one foot of pipeline will displace 9.62 cubic feet of soil which will then be forced into much smaller space.
- Many landowners have expressed concerns with compaction and its long-term yield reductions. See statements regarding soil compaction/reduced crop yield by

- CO20-27 As discussed in section 4.8.4 of the EIS, with implementation of Rover’s CMPs and our recommendations, we conclude that impacts on agricultural land would be short-term. See the response to comment CO20-12 for the definition of short-term impacts.
- CO20-28 See the response to comment CO20-10 regarding the use of the term “stranded.”
- CO20-29 Rover would be required to adhere to its AIMP (see appendix G), which include procedures for compaction rutting, land leveling, and backfill. As discussed in the AIMP, excess spoil would be removed offsite.

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CO20-29
cont'd | landowners Huddle (Exhibit G),³¹ Rettig (Exhibit D),³² McNaull (Exhibit H),³³ and
Polasek (Exhibit C).³⁴ For more information see Rutgers study of “Assessment of Soil
Disturbance on Farmland” (Exhibit F).³⁵

CO20-30 | 2. “Prime Farmland and Farmland of Statewide Importance” (section 4.2.2.6 on page 4-
44) is helpful but needs to be expanded. The sentence
“Soils that do meet the above criteria may be considered prime
farmland if the limiting factor is mitigated (e.g. by draining or
irrigating).”
followed two paragraphs later by “the largest amount of acreage affected would be in
western Ohio,” aptly describes many of the farmland acres directly impacted by the
two 42-inch pipelines. But again, further description is needed.
This section of the DEIS should be expanded to recite key facts about the “Black
Swamp” area of northwest Ohio and the adjacent areas which, mostly crossed by two
42-inch pipelines, would not be commercially tillable today without the major drain
tile investment which has been made by landowners.³⁶ For more information on the
Black Swamp area of Ohio see the September 15, 2015 FERC filing of E&W titled

CO20-30 | Section 4.8.4.1 of the EIS discusses drain tiles, including impacts
and mitigation measures proposed by Rover as well as our
recommendations.

³¹ Comments of Hamler, Ohio FERC Public Meeting for Comments, Darla Huddle, No. CP15-93-000 (Mar. 21, 2016).

³² Transcript of Hamler, Ohio FERC Public Meeting for Comments, Rob Rettig, 2-3, No. CP15-93-000 (Mar. 21, 2016).

³³ Comments of Landowners James McNaull and Greg McNaull, Re: Rover Pipelines (Nov. 13, 2015).

³⁴ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 2-6, 9, 12-14, No. CP15-93-000 (Mar. 21, 2016).

³⁵ Daniel Gimenez et. al, “Assessment of Soil Disturbance on Farmland” RUTGERS NEW JERSEY AGRICULTURAL EXPERIMENTATION STATION, pg. 1-7, April 2010.

³⁶ Henry County, Ohio Commissioner Glenn Miller testified at the Hamler, Ohio FERC scoping meeting on March 21, 2016

Henry County is part of what is known as “Black Swamp.” To make land productive required complex drainage systems to be constructed to move water off the land and on into Lake Erie. The combination of surface and underground drainage was constructed to allow the soil to dry in a timely manner. Because the Rover Project will affect many future generations, it is imperative FERC require Rover to responsibly restore the land, also to hold Rover responsible for restoring the land drainage system with the approval of the landowner. Both land restoration and drainage restoration should be completes before Rover is allowed to pump any gas through the pipeline.

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-30
cont'd

“MOTION TO STAY FERC ISSUANCE OF DRAFT ENVIRONMENTAL IMPACT STATEMENT UNTIL ROVER PRESENTS FULL AND ACCURATE INFORMATION OF ENVIRONMENTAL IMPACT ROVER PROJECT WILL CAUSE” (Exhibit I)³⁷ (“Motion to Stay”). Additional comments as to why pre-construction, construction, and post-construction drain tile plans must be timely and properly agreed upon by Rover, landowners, and local tile contractors and implemented are set forth in our discussion of section 4.8.4.1 at ILE.15 herein.

CO20-31

3. “General Impact and Mitigation” (section 4.2.5 on pages 4-49 to 4-52) should be amended so the discussion of soil compaction on page 4-49 accurately reflects that “compaction will affect long-term crop yields.” For more information regarding compaction see our discussion at ILE.1 herein and statements Huddle (Exhibit G),³⁸ Rettig (Exhibit D),³⁹ McNaull (Exhibit H),⁴⁰ and Polasek (Exhibit C).⁴¹

CO20-31

As discussed in section 4.8.4, based on Rover’s CMPs and our recommendations, we conclude that impacts on agricultural land, including impacts from compaction, would be short-term.

CO20-32

4. “General Impact and Mitigation” (section 4.2.5 on pages 4-49 to 4-52) should be amended so the language on page 4-51 stating “Rover would also compensate landowners for damages caused on or off the right-of-way by construction activities” and “Rover would mitigate for impact on agricultural lands by use of the following measures: . . . landowner compensation for lost production and/or crop damages” reads:

CO20-32

The EIS appropriately refers to compensation for loss of production and crop loss. The amount of compensation would be part of the easement negotiations between Rover and the landowner. See the response to CO20-3 regarding landowner negotiations.

“Rover would also fully and adequately compensate landowners for damages caused on or off the right-of-way by construction activities”

³⁷ Motion to Stay Issuance of Draft Environmental Impact Statement Until Rover Represents Full and Accurate Information of Environmental Impact Rover Project will Cause, Rover Pipeline, LLC, No. CP15-93-000, pg. 3-6 (FERC Sep. 15, 2015).

³⁸ Comments of Hamler, Ohio FERC Public Meeting for Comments, Darla Huddle, No. CP15-93-000 (Mar. 21, 2016).

³⁹ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Rob Rettig, 2-3, No. CP15-93-000 (Mar. 21, 2016).

⁴⁰ Comments of Landowners James McNaull and Greg McNaull, Re: Rover Pipelines (Nov. 13, 2015).

⁴¹ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 2-6, 9, 12-14, No. CP15-93-000 (Mar. 21, 2016).

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-32
cont'd

and

“Rover would mitigate for impact on agricultural lands by use of the following measures: . . . full and adequate landowner compensation for lost production and/or crop damages.”

For more information see our discussion at I.E.15.b and I.E.17 herein.

CO20-33

5. “Conclusions” (section 4.2.6 on page 4-52) should be expanded to broaden the discussion of “compaction,” as described above in comment I.E.1 herein. The statement at the end of the first paragraph,

“Based on the overall soil conditions present in the Project areas and the applicant’s proposed construction and operation methods, we conclude that construction of the Projects would not significantly alter the soils of the region.”

should be replaced with the sentence:

“Based on the overall soil conditions present in the Project areas and applicant’s proposed construction and operation methods, unless (1) Rover implements additional compaction reducing methods such as different equipment, matting or padding, and (2) Rover, landowners, and local drain tile contractors agree on pre-construction, construction, post-construction, and operating drain tile plans and the plans are timely and properly implemented, we conclude that construction of the Projects will significantly alter the soils of the region.”

See statements of Polasek (Exhibit C)⁴² which also describes what many landowners have reported about their treatment by Rover.

CO20-34

6. “Conclusions” (section 4.2.6 on page 4-52) should be amended so the first sentence of the second paragraph says:

“Impacts of Rover’s Project during post-construction operations are expected to be minimal, if Rover, landowners, and local drain tile contractors agree on pre-construction, construction, and post-construction and operation drain tile plans and the plans are timely and properly implemented.”

⁴² Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 1-14, No. CP15-93-000, (Mar. 21, 2016).

CO20-33

See the response to comment CO20-14 regarding our conclusions for impacts on soils. See the response to comment CO14-3 regarding drain tile plans.

CO20-34

See the response to comment CO20-14 regarding our conclusions for impacts on soils.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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| CO20-34
cont'd | Please see discussions at comments II.E.1 and II.E.5 herein. |
| CO20-35 | <p>7. "Access Roads" (section 4.4.1.4 on page 4-90 and section 4.5.1.4 on page 4-102) should be amended by adding the following sentence to each:</p> <p style="padding-left: 40px;">"Rover should fully and adequately compensate landowners when access roads used by Rover are on or impact privately owned land. Rover shall provide the landowner with continued use of said access roads during construction and operations."</p> |
| CO20-36 | <p>8. "Pipeline Facilities and Additional Temporary Workspace" (section 4.5.5.1 on pages 4-105 and 4-106) should be amended so the first paragraph on page 4-106 and the third bullet point after the eighth paragraph on page 4-106 recognize that the compaction problems will exist and reduce crop yields long-term rather than "temporary to short term." For more information see our discussion at II.E.1, II.E.5, and II.E.15 herein.</p> |
| CO20-37 | <p>9. The last sentence of "Conclusion" (section 4.5.6 on page 4-108) should be replaced by the sentence:</p> <p style="padding-left: 40px;">"We do not consider the Project's impacts on agricultural lands, except for reduced crop yields resulting from compaction, to be significant due to implementation of drainage plans described elsewhere in the FEIS and the expected return of agricultural lands to productivity after construction, as well as our recommendations throughout this EIS and Rover's proper and timely implementations of its AIMP's."</p> <p>For more information and the reasons for this amendment, see our discussion at II.E.1, II.E.5, and II.E.15 herein.</p> |
| CO20-38 | <p>10. "Existing Aquatic Resources" (section 4.6.2.1 on pages 4-121 to 4-125) should be amended to recite that the many Ohio "drainage ditches" are vital to agricultural lands and are permanent rather than "temporary." The drainage ditches are often interconnected with the numerous and vital drain tile and if damaged, can lead to</p> |

[30]

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|---------|---|
| CO20-35 | The use of and compensation for private access roads would be part of easement negotiations between Rover and landowners. |
| CO20-36 | See the responses to comments CO20-12 and CO20-14 regarding our conclusions for impacts on soils. |
| CO20-37 | See the responses to comments CO20-12 and CO20-14 regarding our conclusions for impacts on soils. |
| CO20-38 | Section 4.6.2.1 discusses impacts on fisheries, not impacts on agricultural land. In the context of the section, the term "temporary" was intended to refer to the temporary and intermittent nature of water flow within agricultural ditches. We recognize that agricultural ditches exist, and are permanent features. As such, the conclusion that agricultural ditches are not expected to support fishery resources is appropriate. Regardless, the section has been revised for clarity. |

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-38
cont'd

flooding of thousands of acres of Ohio land, especially in the Black Swamp area. For more information see Henry County, Ohio Commissioner Glenn Miller's comment at footnote 36. We trust that when Rover Environmental Project Manager, Kevin Bowman, and the other FERC and Cardno staff visited Ohio, during their visits to Hamler, Ohio on March 21, 2016 and Fayette, Ohio on March 22, 2016, they observed the wide drainage ditches and realized the major overall importance to soil and land drainage and flooding avoidance by these ditches generally, and especially where they to interconnect with drain tile.

CO20-39

11. "Pipeline Facilities" (section 4.8.1.2 on pages 4-159 to 4-161) should be amended to:

a. Delete from the last paragraph on page 4-160 the sentence that states:

"The primary impacts in these areas would be short term and occur during the growing season concurrent with construction."

CO20-40

b. Delete from the last paragraph on page 4-160 the sentence that states:

"Rover would compensate farmers for crop losses associated with construction disturbances in accordance with individual negotiations."

and add a sentence that reads:

"Rover should negotiate in good faith with landowners and compensate landowners fully and adequately for all current and future crop losses associated with construction and operation of the pipeline(s)."

See statements of Huddle (Exhibit G),⁴³ Rettig (Exhibit D),⁴⁴ McNaull (Exhibit H),⁴⁵ and Polasek (Exhibit C).⁴⁶

⁴³ Comments of Hamler, Ohio FERC Public Meeting for Comments, Darla Huddle, No. CP15-93-000 (Mar. 21, 2016).

⁴⁴ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Rob Rettig, 1-4, No. CP15-93-000 (Mar. 21, 2016).

⁴⁵ Comments of Landowners James McNaull and Greg McNaull, Re: Rover Pipelines (Nov. 13, 2015).

CO20-39

We believe the language in the EIS is appropriate, as written. See the response to comment CO20-27 regarding our conclusions of impacts on agricultural land.

CO20-40

We believe the paragraph mentioned is appropriate and no edits are needed. See the response to CO11-1 regarding landowner negotiations.

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-41 12. "Access Roads" (section 4.8.1.5 on page 4-164) should be amended to add to the first paragraph the sentence:

"Rover should fully and adequately compensate landowners when access roads used by Rover are on or impact privately owned land. Rover shall provide the landowner with continued use of said access roads during construction and operations."

CO20-42 13. "Landownership and Easement Requirements" (section 4.8.2 on pages 4-164 and 4-165) should be amended as follows:

a. The fourth paragraph should read:

"An easement agreement between a pipeline company and a landowner typically specifies compensation to the landowner for all losses including, but not limited to, losses from construction and operation of the pipeline, losses of resources, damages to the property on and off the easement during and after construction, and for restrictions on existing uses that would not be permitted on the easement, as well as contain numerous provisions to protect the landowner and his/her land before, during, and after construction and during operation of the pipeline. Landowner compensation should be fully determined through good faith negotiations between Rover and the landowner."

CO20-43 b. The first sentence of the first paragraph on page 4-165 should read:

"If easements are in good faith negotiated between Rover and landowners owning at least ninety percent of the Ohio land to be covered by the easements, and if the project is otherwise approved by the Commission, Rover may use the right of eminent domain to acquire the additional property necessary to operate the pipeline(s)."

CO20-44 c. At the end of the second paragraph on page 4-165, there should be an additional sentence that reads:

"Prior to the end of the DEIS period, Rover should file with the Secretary the current status of its good faith easement

CO20-41 See the response to comment CO20-35 regarding compensation for access roads.

CO20-42 See the response to comment CO11-1 regarding landowner negotiations.

CO20-43 See the response to comment CO11-1 regarding landowner negotiations and eminent domain.

CO20-44 The status of easement negotiations between Rover and landowners is beyond the scope of the EIS. See the response to comment CO11-1 regarding landowner negotiations and eminent domain.

⁴⁶ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 1-14, No. CP15-93-000 (Mar. 21, 2016).

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-44
cont'd

negotiations with all landowners on the pipeline(s) indicating the number and percent of miles of easements obtained and not obtained, the specifics of offers made, and status of negotiations where easements have not been obtained.”

CO20-45

As of March 28, 2016, Rover has recorded a total of only 470 easements (please see chart on page 11, above) on Ohio land for this major pipelines project. Thus, it appears Rover has acquired less than one-third of the necessary Ohio easements for this project, which means Rover has not acquired two-thirds of the total necessary Ohio easements for the project. Rover has stated to E&W that it is currently preparing to sue “500 to 600 landowners” in Ohio for eminent domain. Rover has continuously threatened that it plans to sue if Ohio landowners do not agree to accept unfair and inadequate compensation and easement terms.⁴⁷

Rover’s anticipated use of eminent domain is not consistent with the Commission’s Policy Statement, nor the Natural Gas Act. While a pipeline company may have some difficulty acquiring all necessary easements without the use of eminent domain, it is obviously unfair, inappropriate, and illegal to act as Rover proposes, suing the vast majority of Ohio landowners. Rover’s anticipated use of eminent domain will not be against a “few holdouts” or even just “some landowners,” it will be against *most* Ohio landowners affected by this major pipelines project.

From the beginning of this Rover Pipelines project, it has been apparent that Rover did not intend to negotiate in good faith with Ohio landowners.

⁴⁷ Stated by Rover to E&W on August 11, 2015, November 2, 2015, February 2, 2016, and implicit in the Rover letter to Stakeholders dated February 26, 2016 (Exhibit E).

CO20-45

See the response to comment CO11-1 regarding landowner negotiations and eminent domain. See the response to comment CO15-3 regarding the Commission. The commentors’ statement regarding their inability to negotiate with Rover is noted. See the response to comment CO14-3 regarding drain tile plans.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-45
cont'd

From the beginning of this project it has been apparent that Rover intended to try and use eminent domain to acquire a majority of the Ohio easements necessary for the project. Efforts by Rover land agents to acquire Ohio easements were minimal since the beginning of the project, especially as compared with efforts of land agents of other pipeline companies; beginning in the summer of 2014, Rover land agents made minimal efforts which diminished as Rover laid off land agents, only confirming that Rover's original intention was to use eminent domain to acquire easements.

Rover is employing a bad faith negotiations strategy with Ohio Landowners although spending large amounts of money on full page and other advertising in local papers and hiring public relation companies to create the impression Rover cares about Ohio. Rover has refused to engage in meaningful discussions on easement terms or compensation, and is more interested in threatening eminent domain rather than listening and addressing major concerns. Worse, Rover has continued to misrepresent and mislead Ohio landowners.

As FERC and its staff have been made aware, drainage systems in Ohio are essential for crop productivity. Rover began misleading Ohio landowners with a letter to landowners in October 2014 stating "Rover has enlisted the services of Land Stewards LLC, a consulting group of agricultural engineers, drainage contractors, agronomists, and conservation planners who will lend their expertise to the land negotiation process between landowners and Rover to develop plans to mitigate and restore any impacts to agricultural lands." For

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-45
cont'd

more information regarding what landowners were provided by Rover see the undated letter from Rover to landowners and accompanying Land Steward's landowner letter dated October 16, 2014 (Exhibit J).⁴⁸ Land Stewards was to create an individual drainage repair plan for each parcel of property affected by the Pipeline project. However, Rover has used Land Stewards as a pawn in its bad faith negotiation strategy. For additional verification please see again the self-prepared statement of landowner Ben Polasek (Exhibit C)⁴⁹ who states the experience of hundreds of Ohio landowners. For months Rover intentionally and specifically told Land Stewards representatives to cease all work on Landowner drainage system repair plans if the Landowner was represented by a law firm for no reason other than the represented landowner was not agreeable to Rover's landowner unfriendly easement terms which did not protect landowners.

As the Ohio Farm Bureau ("OFB") has stated in its many, many educational, landowner meetings – every landowner on the pipelines route should hire a knowledgeable attorney to negotiate easement terms and compensation. Surely the Commission and FERC staff can understand the reasons for these OFB efforts.

On August 11, 2015, seven Rover personnel came to our small office in Columbus, Ohio to threaten and intimidate us and our clients with its planned use of eminent domain. We thought the meeting was to discuss easement terms; we had advised Rover that easement terms needed to be negotiated

⁴⁸ Letter from Rover Pipeline, LLC and accompanying letter from Land Stewards, LLC to Landowners (Oct. 16, 2014).

⁴⁹ Transcript of Hamler, Ohio FERC Public Meeting for Comments, Ben Polasek, 1-14, No. CP15-93-000 (Mar. 21, 2016).

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-45
cont'd

prior to discussions of compensation because until the easement terms were final, the Landowners could not know how much compensation they should receive. If terms protecting the land cannot be negotiated, then a landowner needs additional compensation to buy more insurance, obtain additional fencing, pay drain tile contractors, etc., etc. In the August 11 meeting Rover personnel made it immediately and emphatically clear that they were not in our office to discuss easement provisions, but to threaten eminent domain.

Realizing Rover was not interested in discussing easement provisions, especially drain tile issues for more than 170 of E&W's 200 plus Landowner clients, our firm was forced to file with the Commission the Motion to Stay on September 14, 2015 detailing major concerns which Rover was refusing to adequately address. E&W much preferred to spend time and effort discussing easement terms but that course of action was refused by Rover which immediately attacked E&W by telephoning many of our Landowner clients and telling them to terminate their lawyers engagement and Rover would "take care of" them.

Recently, Rover sent a letter dated February 26, 2016 to many landowners represented by lawyers (Exhibit J).⁵⁰ The letter has the implied threat of eminent domain litigation to landowners who do not accept Rover's financial offers, which are less than one half of what similar (but smaller) pipelines have recently paid Ohio landowners for similar (but smaller) pipelines. And, this letter was sent without easement provisions being agreed upon. Yet another example of Rover's bad faith "non-negotiations."

⁵⁰ Letter from Rover Pipeline, LLC and accompanying letter from Land Stewards, LLC to Landowners (Oct. 16, 2014).

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-45
cont'd

Numerous attempts to negotiate reasonable easement terms with Rover have been met with negativity. We would be glad to provide the FERC and its staff with a timeline and detailed listing of easement terms proposed to Rover and Rover's lack of responses, if requested to do so.

Rover's actions and inactions are the reasons why so many Ohio landowners do not trust Rover. As this Commission has acknowledged in its Policy Statement, even though compensation received in an eminent domain proceeding may be deemed legally adequate, the dollar amount received as a result of eminent domain may not provide a satisfactory result to the landowner and this is a valid factor to consider in balancing the adverse effects of a project against the public benefits.⁵¹ We believe this statement is especially true given Rover's tactics.

As described above, the Commission strongly encourages pipeline companies to try to acquire as much of the necessary rights-of-way as possible without use of eminent domain. The FERC Policy Statement discusses the Commission's tolerance of "modest use" of eminent domain against "some" landowners.⁵² Rover is not planning "modest use" of eminent domain, Rover is, and has been for nearly two years, planning *major* use of eminent domain against many hundreds of Ohio landowners.

Worse, Rover is not trying to acquire necessary rights-of-way through good faith negotiations; Rover's strategy is to use the threat of eminent domain to try and force landowners to accept landowner unfriendly easement

⁵¹ Order Clarifying Statement of Policy, 90 FERC ¶ 61,128, at 19 (Feb. 9, 2000).

⁵² Statement of Policy, 88 FERC ¶ 61,227, 27 (Sep. 15, 1999).

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-45
cont'd

provisions and inadequate compensation. Rover is focusing its attention on preparing to sue hundreds and hundreds of Ohio landowners rather than trying to negotiate reasonable terms and adequate compensation with landowners.

CO20-46

14. "Existing Residences; Commercial and Industrial Facilities" (section 4.8.3.1 on pages 4-166 and 4-167) should be amended to describe residences and other inhabited structures within 200 feet of construction; thus within 250 feet of 42-inch pipeline(s) filled with and transporting natural gas at 1,440 pounds per square inch. Why is 50 feet from construction (100 feet or less of two 42-inch pipelines) utilized as a measure? Landowners residing even 1,000 feet from such pipelines express real fear when discussing the Rover pipelines in private, although often hesitant to testify at FERC/Rover public meetings because they are afraid of retaliation from Rover which Rover has done in the past.

CO20-47

15. "Pipeline Facilities" (section 4.8.4.1 on pages 4-168 to 4-171) discussions of "drainage systems" and "compaction" is certainly appreciated but needs to be expanded. Pre-pipeline construction drainage tile work should be completed by the local drainage tile contractors on many farms affected by this Pipeline project. As expressed in the E&W Motion to Stay, there are several pipeline projects in Ohio where no pre-pipeline construction drainage tile work was completed and many of those drainage systems have not been properly repaired and restored several years after the project. Pre-pipeline planning and drainage tile work will greatly reduce potential long-term damage to the drainage systems. Drain tile must be installed deep enough or it will not effectively drain subsurface water from the property.

CO20-46

Residences and structures within 50 feet of construction workspace would be most directly affected by construction activities. These impacts may include increases in noise, dust, visual impact, etc. See the response to comment LA3-1 regarding pipeline safety. The commentors' statement regarding fear of retaliation from Rover is noted.

CO20-47

As stated in Rover's AIMPs, Rover would attempt to identify all tile lines within the right-of-way prior to pipeline installation. This would be done through communication with the landowner, and any known tile lines would be flagged prior to construction. Any additional pre-construction monitoring could be negotiated between Rover and the landowner during easement negotiations.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-48

a. Landowners expect the Rover Project will cause their agricultural land to be compacted and otherwise adversely affected for at least twenty years and possibly forever. The inset “Prior to Construction” bold face printing on page 4-169 should be amended to provide for at least 20 year post-construction monitoring.

CO20-49

b. While monitoring would confirm Landowner’s concerns, monitoring does nothing to compensate landowners for long-term losses due to the pipeline(s). Rover does not even acknowledge longer term compaction and soil damage losses. The above mentioned “Prior to Construction” paragraph on page 4-169 should also provide

“Rover should compensate landowners for crop yield losses as documented resulting primarily from pre-construction, construction, and post-construction activities and operation of the Rover Project, for as long as such crop yield losses are so documented.”

With the advent of yield monitoring technology in combines, farmers are now able to track their yields down to the square inch on each of their fields. We have provided yield monitor maps for four different fields (Field 1 (Exhibit G), Field 2 (Exhibit H), Field 3 (Exhibit K), and Field 4 (Exhibit L) located in northwest Ohio. Each of these four fields have an existing pipeline that traverses them, with the pipeline being installed more than 50 years ago.

Field 1, as designated on the map, is a 60-acre field in Defiance County, Ohio. As shown, there is a pipeline that runs at an angle through the middle of the field. This map depicts that on the areas immediately adjoining this existing pipeline, the farmer was producing between 70 and 72 bushels of

[39]

CO20-48

With implementation of Rover’s CMPs, we conclude that our recommendation for 5-year post-construction monitoring in agricultural lands is sufficient. As stated in Rover’s Plan, Rover has committed to continue revegetation efforts in agricultural lands until revegetation is successful (crop growth is similar in disturbed area as it is in adjacent undisturbed area), even if this extends past 5 years.

CO20-49

See the response to comment CO20-27 regarding our conclusions regarding impacts on agricultural land. See the response to CO11-1 regarding landowner negotiations and eminent domain. The construction and restoration techniques used on other infrastructure projects in the region are not necessarily equal to those proposed by Rover, thereby making direct comparisons to the matter at hand unsuitable.

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-49
cont'd

soybeans per acre. On the area just above the existing pipeline, the farmer was producing between 57 and 60 bushels of soybeans per acre. Based on this yield monitor map, the farmer suffered about a 20% bushel loss over the existing pipeline as compared to areas adjoining the pipeline. This loss is still present despite the pipeline being installed more than 50 years ago.

Field 2, as designated on the map, is a 76-acre field located in northwest Ohio. As shown, there is an existing pipeline that runs through the middle of the field. This map depicts that on areas immediately adjoining this existing pipeline, the farmer was producing between 61 and 65 bushels of soybeans per acre. On the area just above the existing pipeline, the farmer was producing between 55 and 61 bushels of soybeans per acre. Based on this yield monitor map, the farmer suffered about a 10% bushel loss over the existing pipeline as compared to areas adjoining the pipeline. This loss is still present despite the pipeline being installed more than 50 years ago.

Also, note the perimeter of each of Field 1 and Field 2. The perimeter of any field is typically where the heavy farm equipment traverses and turns, which results in increased compaction. Both maps clearly show the impact compaction can have on crop yield. Also please see yield chart 3 of Huddle land, and yield chart 4 of McNaul land which both demonstrate crop yield loss from prior pipelines.

Rover is intending to traverse Ohio agricultural land with much larger equipment than standard farming equipment, which will result in long-term compaction. Some of Rover's equipment which will be present on both the

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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cont'd

permanent and temporary easements weighs three times as much as a landowner's largest farming equipment.

Representative Ohio Farm Equipment

Equipment Type	Manufacturer / Model	Weight (lb.)	Source
Tractor	John Deere 7230R	24492	http://www.tractordata.com/farmtractors/006/8/5/6856-john-deere-7230r-dimensions.html
Planter / Seeder	John Deere 1770 16-Row	16974	http://www.ag-power.com/new-product/find-your-deere/agriculture/planting-and-seeding/john-deere-1770nt-16row30-fertilizer-planter
Dry Manure Spreader	Frontier MS1266	9600	https://www.deere.ca/en_CA/docs/non_current/dsfb32744_manure_spreader_large_175bu_or_more_lit.pdf
Harvester	John Deere 645FD	9844	http://manuals.deere.com/omview/OMHXE94126_19?tm=
Baler	John Deere 569 Silage Special	2200	http://www.agprocompanies.com/pdf/9-series-balers.pdf
Wagon	Hay Wagon	1000 - 2000	
Sprayer	John Deere 4940	35770	http://www.agrivationequipment.com/assets/newfolder/Self-Propelled-Sprayer.pdf
Combine	Gleaner 588	32220	http://www.gleanercombines.com/Library/upload/gleaner-s8-vs-s7-comparison.pdf
Loader	John Deere 544k	15879	https://www.deere.com/en_US/products/equipment/wheel-loaders/544k/544k-it4.page#viewTabs
Cultivator	62' Salford 700	20200	http://www.chsagmachine.com/pdf/700FieldCultivator.pdf
Trencher	Case 560	7000	http://www.eaglepowerandequipment.com/pdfs/360.pdf

Representative Rover Pipeline Installation Equipment

Crew	Equipment Type	Make/Model	Approximate Weight (lb.)	Source
Bend/Setup	Sideboom	583	91000 - 92000	http://www.worldwidemachinery.com/Documents/PDFBrochures/SP-583.pdf
Clean Up	Excavator	336	82,000	http://www.cat.com/en_US/products/rental/equipment/excavators/large-excavators/18378156.html
Bend/Setup	Trucks	F-250	6000 - 7000	https://www.ford.com/trucks/superduty/specifications/view-all/
Clean Up	Dozer	D6	29000 - 36000	http://www.cat.com/en_US/products/new/equipment/dozers.html
Clean Up	Dozer	D7	57000	http://www.cat.com/en_US/products/new/equipment/dozers.html
Clean Up	Dozer	D8	87000	http://www.cat.com/en_US/products/new/equipment/dozers.html
Coating	Dozer	D6T	46000	http://www.cat.com/en_US/products/new/equipment/dozers.html
Drilling	Excavator	349	117000	http://www.cat.com/en_US/products/rental/equipment/excavators/large-excavators/18115206.html
Lay Pipe	Misc Equipment	Gator	1000	https://www.deere.com/en_US/asi/docs/brochure/industry/residential/learn_more/view_gator_utility_vehicles_brochures/pdf/46123_xuv_specs.pdf

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-49
cont'd

Moreover, Rover is telling Landowners that it does not anticipate having to remove any excess dirt despite installing two 42" pipelines. If there is no excess dirt to be removed, undoubtedly the soil is going to be compacted; a problem which farmers in Ohio work diligently and effectively to reduce.

Crop yield loss information has been presented to Rover for their comment. Rover has provided no evidence as to why landowners should not expect long-term yield loss from Rover's pipeline(s) and installation equipment nor acknowledged its equipment will be much heavier than equipment used to install pipelines years ago. A majority of the pipelines being installed by Rover are larger and heavier than the older pipelines described, and the equipment installing the Rover pipelines is larger and heavier so the resulting compaction and crop yield reduction will be significantly greater than as described in the two examples.

The Commission should not conclude that the impact this pipeline project will have on agricultural production and soils is "temporary to short-term."

CO20-50

16. "General Agricultural Impacts" (section 4.8.4.1 on pages 4-168 to 4-171) should be amended because:

- a. Rover is refusing to implement important construction methods that will reduce impact to the environment. Per the approval test set forth in the Policy Statement, the Commission will determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on landowners and communities affected by the route of the new pipeline(s).

CO20-50

See the response to comment CO20-27 regarding our conclusions on impacts on agricultural land.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-51

b. Absent from Rover's application and FERC filings is the fact that Rover is traversing some of the most productive agricultural land in Ohio and the United States. Most of the land impacted by Rover's Mainline and Market Segment is used to grow typical grain products: corn, soybeans, and wheat. Set forth below is a chart comparing the average yields per acre of corn and soybeans grown in northwest Ohio along with national average yields per acre.

	Northwest Ohio Corn Yield Per Acre	United States Average Corn Yield Per Acre	Northwest Ohio Bean Yield Per Acre	United State Average Bean Yield Per Acre
2014	186.6	171	53.4	47.8
2013	179	158.1	48	44
2012	114.3	123.1	47.9	40
2011	151.9		48.2	
2010	154.9		44.1	
Average	157.34	150.73	48.32	43.93

In addition to typical grain products, Rover's proposed pipelines project is also slated to impact farmland where high value specialty crops are grown. Some of the specialty crops include tomatoes, green beans, popcorn, carrots, and potatoes. In northwest Ohio, some farmers grow vegetables for the Campbell Soup factory located in Napoleon, Ohio. In some cases, once Rover impacts the land, these specialty crops cannot be planted again for an extended period of time.

Rover's proposed pipeline project is also going to impact farmland that is double-cropped. Ohio's climate usually allows farmers to plant a crop in the spring (usually corn) which then is harvested in late summer. After the

[43]

CO20-51

Section 4.8.4 of the EIS has been updated to include a discussion of double cropping. In section 4.8.5.1, we discuss the specialty crops that have been identified as crossed by the Project. However, the crops identified by the commentor (tomatoes, green beans, popcorn, carrots, and potatoes) would be considered typical crops and not specialty crops. See the response to comment CO20-32 regarding compensation for crop loss.

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summer crop is harvested, many farmers then plant a winter crop (like wheat) which is harvested in spring. This important information is not described in the DEIS.

CO20-52

c. Three construction techniques Rover could implement to further reduce the impact this pipeline project will have on the environment.

- i. Soils – Triple Lift or Triple Ditch: Throughout the majority of agricultural land across Ohio, three distinct layers of soil are present: Horizon A, Horizon B, and Horizon C. While the topsoil (Horizon A) is the most productive layer of soil, it is not the only soil with productive agricultural value. Below the topsoil is a layer of subsoil (Horizon B) that, while not as productive as the topsoil, is important in the composition of agricultural fields. This layer of subsoil (Horizon B), should be removed in a second stage and kept separated from Horizon A and Horizon C. Below the subsoil is a third layer of soil (Horizon C) that is generally unproductive in farming.

As stated previously “Rover has enlisted the services of Land Stewards LLC, a consulting group of agricultural engineers, drainage contractors, agronomists, and conservation planners who will lend their expertise to develop plans to mitigate and restore any impacts to agricultural lands” (Exhibit J).⁵³ Rover has not been utilizing Land Stewards as Rover promised landowners in the

⁵³ Letter from Rover Pipeline, LLC and accompanying letter from Land Stewards, LLC to Landowners (Oct. 16, 2014).

CO20-52

As discussed in Rover’s AIMP, as part of easement negotiations, landowners may request additional mitigation measures beyond what is listed in the AIMP or Rover’s Plan, including the use of triple-lift/triple-ditching.

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October 2014 letter. Land Stewards representatives have stated that it is Land Stewards' belief that some soils on the pipeline route in Ohio will greatly benefit from Rover implementing the triple ditching or triple lift soil removal technique.

Rover acknowledges the potential need for triple ditching in its AIMP. Section 2(F) of Rover's AIMP provides that

"In circumstances where the subsoil has significant productivity characteristics when compared to the underlying parent material, a triple-lift method will be used to segregate and stockpile these layers to maintain productivity."

Despite having a recommendation from Land Stewards and acknowledging the need for triple ditching in its AIMP, Rover is refusing to disclose where, if ever, it plans to implement the triple ditching technique.

CO20-53

- ii. Ground Elevation/Surface Drainage: Surface drainage is vital in Ohio because of the ground elevation in north and northwest Ohio. For more information see our discussion at I.E.2 herein. While many landowners have implemented intricate drainage tile systems to remove excess water from their farms, surface drainage is also important on many farms. The effects of disruption of natural surface drainage will be seen well beyond the right-of-way during construction and after. During construction, the disturbance of the ground's natural contours will prevent surface water from running

CO20-53

As discussed in its AIMP, Rover would restore the right-of-way to its original pre-construction contours. Trench crowns would not be used in agricultural lands unless specifically requested by the landowner.

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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off the property and subject land adjacent to the right-of-way to flooding.

While a trench crown may be necessary to allow for settling following construction, in many instances it will cause disturbances in surface drainage for the rest of the field. Where surface water would otherwise be free to flow, the trench crown will dam up the water and cause flooding issues. Without a trench crown, settling soil will cause similar problems allowing surface water to pool. Rover's proposal that it will respond and address landowner concerns of this nature within 120 days after construction is grossly inadequate and needs to be revised to protect from flooding thousands of acres of land along Rover's pipeline route.

CO20-54

- iii. Depth of Pipeline: The depth at which the pipeline(s) are to be buried is of great concern to landowners. Of particular concern is the ability to install and maintain future drain tile across and inside the right-of-way, and safety/piece of mind.

The importance of adequate drainage cannot be overstated. If the Rover pipeline(s) are not installed deep enough, landowners will lose the ability to repair and install tile in the future. In many cases, drain tile is installed at a depth of three- to five-feet and outlet tile is often installed five- to six-feet deep, and deeper in some areas on Rover's pipeline route. The tile must be installed

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CO20-54

See the response to comment SA3-2 regarding OHDA standards. Additional mitigation measures, such as increased depth of cover, would be negotiated as part of landowner negotiations.

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deep enough or it will not effectively drain subsurface water from the property.

Rover has indicated that it intends to install its pipelines at least one foot, and possibly two feet, below existing tile. It is important though, even in fields that do not currently have tile, or where the right-of-way does not cross tile in a particular field, that the pipeline(s) are buried deep enough to preserve landowners' use of their property and the ability to install tile in the future. Rover's pipelines must be at least two feet, and in certain areas more, below the tile, and 5.5 to 6 feet below the surface where no tile exists, or landowners will suffer irreparable long-term harm.

Burying the pipeline deeper also lessens the fear of the landowners who will have to live and work near and over the pipelines every day.

These three construction techniques would help mitigate damages and adverse impacts this Rover Project will have. More importantly, without these construction techniques, Rover's impact will be permanent and irreparable.

Therefore, the following amendments should be included in the final EIS:

CO20-55

- i. The named organic farms and specialty crops should be listed in the FEIS and Rover required to compensate accordingly rather than just compensate such crops as corn and soybeans.

CO20-55

Section 4.8.5.1 has been updated to include a recommendation for the organic farm crossed by the Project. See the response to comment CO20-51 regarding the commentors' referenced specialty crops. Regardless of the type of crop impacted, Rover would compensate landowners as negotiated as part of the easement agreement.

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|---------|--|
| CO20-56 | ii. Rover should be required to cooperate with and obtain agreement of soil experts and landowners, and designate appropriate triple ditching areas. |
| CO20-57 | iii. Surface drainage issues should be recognized and specifically provided for and described. |
| CO20-58 | iv. Pipeline(s) should always be installed at least two feet below any drain tile and deeper where appropriate, and at least 5.5 to 6 feet below the surface where no drain tile is currently utilized, but landowners anticipate installing drain tile in the future. |
| CO20-59 | v. Drain tile repair is vital to much of Ohio’s agricultural land as is recognized in pages 4-170 and 4-171 of the DEIS which recites

<p style="margin-left: 40px;">“[T]he design and installation of drain tiles is precision work that should be done by professionals who are knowledgeable of both drain tiles and local conditions.”</p> <p style="margin-left: 40px;">The DEIS recommends to Rover on page 4-171 that it should</p> <p style="margin-left: 40px;">“. . . commit to hire local drain tile contractors to install/repair drain tiles that are damaged or need to be rerouted due to construction activities,”</p> <p style="margin-left: 40px;">which language is helpful and appreciated but does not go far enough.</p> <p style="margin-left: 40px;">In addition to requiring Rover to use local drainage tile contractors, on many farms pre-construction drainage tile work should be performed by the local drainage tile contractors with input from the landowner. As expressed in our September 15, 2015</p> |

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|---------|---|
| CO20-56 | See the response to comment CO20-52 regarding triple-ditching. |
| CO20-57 | See the response to comment CO20-53 regarding impacts on surface drainage. |
| CO20-58 | As discussed in section 4.8.4, Rover would maintain at least 2 feet of cover between pipeline and the tile line where feasible. In all other agricultural areas, the depth of cover would be at least 4 feet in normal soil or 3 feet in consolidated rock. |
| CO20-59 | See the response to comment CO20-15 regarding drain tile repairs. See the response to CO20-47 regarding identifying tiles prior to construction. |

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CO20-59
cont'd

Motion to Stay, several earlier pipeline projects in Ohio have demonstrated that where no pre-pipeline construction drainage tile work was completed and drainage systems not properly repaired and restored after the pipeline was installed, the agricultural lands have been damaged irreparably.

Pre-pipeline planning and drainage tile repair will greatly reduce potential long-term damage to the drainage systems. Rover acknowledged the importance of pre-pipeline construction and planning in Land Stewards' October 16, 2014 letter (Exhibit J),⁵⁴ but has disregarded much of what was recited there. Drainage tile repair plans sets forth the existing drainage system, propose pre-pipeline construction drainage repair, drain tile care during construction, and post-pipeline construction drainage repair, and the cost of performing and completing the work. Some drainage tile repair plans are now being reviewed and approved by landowners, Land Stewards, and Rover, which needs to continue.

CO20-60

vi. The "prior to construction" recommendation on page 4-171 should state:

"Rover should commit to work in good faith with Landowners, Land Stewards, and local drain tile contractors to develop agreed upon pre-construction, construction, and post-construction drain tile plans and to have local drain tile contractors implement these plans for the benefit of all agricultural lands

⁵⁴ Letter from Rover Pipeline, LLC and accompanying letter from Land Stewards, LLC to Landowners (Oct. 16, 2014).

CO20-60

See the response to comment CO20-15 regarding drain tile repairs.

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CO20-60 cont'd	impacted by the pipeline(s), whether on or off the pipeline easement.”
CO20-61	vii. The last sentence just before 4.8.5 on page 4-171 should read “We encourage landowners and Rover to work together in good faith regarding the construction and restorative actions to occur on landowner’s property.”
CO20-62	17. “Organic Farmlands and Specialty Crops” (section 4.8.5.1 on page 4-172) should be amended so the first sentence reads: “The Rover pipeline would cross two Christmas tree farms, organic farms, and farms where lettuce, carrots, tomatoes, green beans, popcorn, and potatoes are grown along Mainlines A and B.” The third sentence of this paragraph should be deleted.
CO20-63	18. “Access Roads” (section 4.8.7.4 on page 4-181) should be amended to add to the first paragraph the sentence: “Rover should fully and adequately compensate landowners when access roads used by Rover are on or impact privately owned land.”
CO20-64	19. “Property Values and Mortgages” (section 4.9.5 on pages 4-195 to 4-197) should be amended so the second sentence in the first full paragraph on page 4-197 reads: “Given these factors, and in consideration of the numerous variables that can affect property value, we conclude that there is not sufficient evidence to demonstrate that the Rover Project would result in decreased property values overall or with respect to any given property, nor is there sufficient evidence to demonstrate that the Rover Project, would not result in decreased property values overall or with respect to any given property.” FERC Environmental Project Director Kevin Bowman stated at the beginning of the FERC meeting in Hamler, Ohio on March 21, 2016 (Exhibit M), ⁵⁵ “FERC does

⁵⁵ Comments of Hamler, Ohio FERC Public Meeting for Comments, Kevin Bowman, No. CP15-93-000, pg. 3 (Mar. 21, 2016).

CO20-61	See the response to comment CO11-1 regarding landowner negotiations.
CO20-62	Section 4.8.5.1 has been updated to include an organic farm that was identified post-draft EIS. Per the FERC’s guidance manual, specialty crops include crops such as orchards, vineyards, hop fields, etc. Crops such as carrots, green beans, tomatoes, lettuce, and potatoes are not considered “specialty crops.”
CO20-63	See the response to comment CO20-35 regarding compensation for access roads.
CO20-64	The requested updates to the section would not be appropriate since the studies reviewed did not reach the conclusion suggested by the commentor. See the response to comment CO19-43 regarding our analysis of property value impacts.

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CO20-64
cont'd

not take sides in disputes between pipelines and landowners.” Unless the suggested language is added, it will be clear that FERC is “taking sides” on the Rover Project and advocating in favor of Rover against landowners.

Landowners have provided FERC with statements regarding reductions in property values caused by pipelines, and qualified appraisers have provided the same results regarding the Rover pipelines. Further, no one denies that two 42-inch pipelines within 100 feet of a residence will discourage potential buyers from paying full price for the residence. However, if FERC is unwilling to state the obvious, the least it can do is include in the FEIS the second sentence of the quotation above.

CO20-65

20. “Environmental Justice” (section 4.9.8 on pages 4-201 and 4-202) should be amended so the first sentence of the next to last paragraph on page 4-202 reads:

“The primary health issues related to the Rover Project would be the risk associated with an unanticipated pipeline or compressor station failure such as an explosion, leakage of natural gas, or fire.”

CO20-66

21. “Pipeline Accident Data” (section 4.12.2 on pages 4-256 to 4-258) Landowners have voiced safety concerns about the Rover pipelines. A majority of the pipelines for the Rover Project have been sitting outdoors for many months near Massillon, Ohio in the open air subject to hot and cold weather, rain, acid rain, sleet, snow, and extreme heat, which likely damaged and reduced the effectiveness against corrosion of the external protective coating on the pipelines. Thus, a recommendation should be added in 4.12.2 on page 4-256, 4-257, or 4-258 that FERC, the Pipeline and Hazardous Materials Safety Administration, or other appropriate federal government agency, should carefully examine the pipelines which have been exposed to the elements for so many months to determine if the external protective coating has been damaged. If

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CO20-65

Section 4.12 discusses the localized risks to public safety that could result from a pipeline failure which is non-specific to Environmental Justice populations.

CO20-66

The DOT *Minimum Federal Safety Standards* in 49 CFR 192 require that pipeline welds be nondestructively tested, and Rover would perform hydrostatic testing of the entire pipeline before putting it into operation. Further, cathodic protection would be used to minimize or prevent corrosion. Lastly, in accordance with DOT regulations, Rover would inspect the pipeline using internal devices (i.e., pigs) that can analyze for corrosion, pipe wall thickness, or defects.

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damage has occurred, Rover should be required to take appropriate remedial measures.

Landowners who have seen these pipelines or photographs of them (Exhibit N) are fearful for their families and properties.

CO20-67

F. 5.0 COMMENTS AND REQUESTS RELATED TO “CONCLUSIONS AND RECOMMENDATIONS” (PAGES 5-1 TO 5-25)

Our comments and requests throughout assume our earlier recommendations are accepted; thus, each recommendation is not repeated here.

1. “Conclusions of the Environmental Analysis” (section 5.1 on page 5-1) should be amended so both of the first two sentences disclose that Cardno Entrix (and/or whichever of the Cardno entities) and TRC performed research and provided information for the Conclusions and Recommendations. The first sentence of section 5.1 should read “The conclusions and recommendations presented in this section are those of the FERC environmental staff and Cardno employees.” For more information and the reasons for this amendment, see II.A.1 herein.

CO20-68

2. Unless the E&W Requests in this FERC filing are included in the FEIS, the third sentence of the second paragraph on page 5-1 will not be accurate.

CO20-69

3. “Geology and Paleontological Resources” (pages 5-1 and 5-2) should be amended so the fourth full paragraph on page 5-2 includes the word “flooding” following the words “surface mines.”

CO20-70

4. “Land Use, Recreation, Special Interest Areas, and Visual Resources” (page 5-9) should be amended by adding at the end of the first paragraph, the words:

“and could affect tens of thousands of additional acres if pre-construction, construction, and post-construction drain tile plans are not timely and properly agreed upon by Rover, landowners, and local

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CO20-67

See the response to comment CO20-9 regarding third-party contractors.

CO20-68

The conclusions provided in section 5.0 are based on FERC staff’s review of the available Project information. Our analysis for which our conclusions are based can be found throughout the EIS.

CO20-69

We assume that the commentator is referring to the sentence discussing our recommendations. However, Rover has provided the outstanding geotechnical reports as requested in the draft EIS. Therefore, the referenced sentence has been deleted altogether.

CO20-70

See the response to comment CO20-15 regarding repair of drain tiles.

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- CO20-70 cont'd | drain tile contractors and implemented by said local drain tile contractors.”
- CO20-71 | 5. “Land Use, Recreation, Special Interest Areas, and Visual Resources (pages 5-9 and 5-10) should be amended so the words “within 10 feet of the construction work area” in the third full sentence at the top of page 5-10 reads “within 50 feet of the construction area.” A number of landowners within the 50 foot area are very fearful and have not reached agreement with Rover.
- CO20-72 | 6. “Socioeconomics” (page 5-11) should be amended, for FERC to honor its commitment that “the FERC, therefore, is not an advocate for the Project” (Exhibit M),⁵⁶ by replacing the second sentence of the second paragraph with the following sentence:
- CO20-73 | 7. “Reliability and Safety” (pages 5-13 and 5-14) should add to the first sentence of the first full paragraph the word “explosion” following the words “pipeline rupture.”
- CO20-74 | 8. “Alternatives” (pages 5-15 and 5-16) should be amended so the last sentence of the second paragraph is replaced by the following sentence:
- CO20-75 | 9. “FERC’s Staff’s Recommended Mitigation” (section 5.2 on page 5-18) should be amended so 6.a begins with the words “how the applicants have implemented their pre-construction plans and . . .” so the sentence reads:

⁵⁶ Comments of Hamler, Ohio FERC Public Meeting for Comments, Kevin Bowman, No. CP15-93-000, pg. 3 (Mar. 21, 2016).

- CO20-71 | As per our recommendations, Rover would be required to obtain landowner concurrence with site-specific residential construction plans for all residences within 10 feet of the construction workspace. Additionally, Rover has developed site-specific residential plans for all residences within 50 feet of construction workspace. The purpose of these plans is to mitigate for construction impacts on residences that are located in close proximity to construction work areas. These plans are not meant to represent mitigation for operation of the pipeline or serve as documentation of an easement agreement.
- CO20-72 | The conclusion that is presented on property values is appropriate based on our literature review
- CO20-73 | Section 5 – Reliability and Safety of the EIS addresses the possibility of ignition from a pipeline rupture. Therefore, the additions recommended by the commentor are not necessary.
- CO20-74 | Our assessment of system alternatives is discussed in section 4.3 of the EIS. Based on our conclusions, the commentors’ requested addition to the text is not appropriate.
- CO20-75 | Any pre-construction plans developed by Rover would be part of its construction procedures or part of its drain tile plans. As discussed in section 4.8.4, we are recommending that Rover provide its finalized Drain Tile Relocation and Reclamation Plans for our review and approval. The commentors’ requested addition to the text is not needed.

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CO20-75 cont'd		“a. how the applicants have implemented their pre-construction plans and how the applicants will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EIS and required by the Order;”.
CO20-76	10.	“FERC’s Staff’s Recommended Mitigation” (section 5.2 on page 5-23) #44 should be amended so that the last six words / numbers are “within 50 feet of a residence” rather than “within 10 feet of a residence.” It is recommended that FERC staff speak with these landowners and also those landowners with residence within 250 feet of the two 42-inch pipelines, to better understand the fear and dread which they have.
CO20-77	11.	“FERC’s Staff’s Recommended Mitigation” (section 5.2 on page 5-23) #45 should be amended to include the following additional language: “Rover shall continue post-construction monitoring beyond the 5-years on all land where monitoring indicates reduced crop production continues, until such monitoring indicates cessation of reduced crops productivity. Rover shall also commit to and compensate landowners for all such reduced crop productivity that was not compensated at the time Rover obtained its easement on all such lands.”
CO20-78	12.	“FERC’s Staff’s Recommended Mitigation” (section 5.2 on page 5-23) #46 should be amended to read: “Prior to construction Rover shall commit to timely hire local drain contractors acceptable to landowners to install/repair drain tiles that are or may be damaged or need to be rerouted due to pre-construction, construction, or post-construction activities.”
CO20-79	13.	“FERC’s Staff’s Recommended Mitigation” (section 5.2 on page 5-23) #47 should be amended by adding the following sentence: “Rover shall also commit to, and timely compensate landowners for all such severed and/or damaged drain tile for which landowners had not been previously compensated.”
CO20-80	14.	An Additional Recommendation (#56) should provide:

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CO20-76	See the response to comment CO20-71 regarding site-specific plans and landowner concurrence.
CO20-77	See the response to comment CO20-32 regarding compensation for crop loss. See also the response to comment CO20-48 regarding post-construction monitoring.
CO20-78	Our recommendation would require Rover to hire local drain tile contractors to install, repair, or reroute drain tiles.
CO20-79	See the responses to comments CO11-1 and CO20-32 regarding landowner negotiations and compensation.
CO20-80	See the response to comment CO15-3 regarding landowner easement agreements.

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“56. Thirty days prior to the date Rover anticipates FERC issuing Rover a CPCN, Rover shall file with the Secretary proof, including copies of signed easements, that Rover has obtained signed easements necessary for the Rover Project that cover and include ninety percent of the landowner property necessary for the Rover Project.”

CO20-81

15. An Additional Recommendation (#57) should provide:

“57. During pre-construction, construction, and post-construction periods, Rover shall promptly file with the Secretary: (a) All letters, email, and other internet communications, other written materials, recorded voicemails, and information regarding telephone calls, of landowner complaints regarding the Rover Project and/or pipelines; and (b) Rover’s responses to such complaints, including but not limited to, mitigation steps, or lack thereof, taken by Rover.”

Based on E&W conversations with hundreds of landowners on or near the Rover Pipelines project routes and E&W visits to nearly every one of the more than 200 E&W client properties directly affected by the Rover Pipelines project, E&W believes it is vital that FERC continue to receive information of Rover’s actions and inactions from the individuals most directly affected by this enormous pipelines project – the landowners.

CO20-81

As stated Rover’s Environmental Complaint Resolution Procedures as well as in recommendation 8f in section 5.2, Rover would be required to file weekly status reports that include a description of any landowner/resident complaints and measures taken to satisfy their concerns. Landowners can directly contact Commission staff should a party have any complaint unsatisfactorily resolved by the applicants by calling the FERC’s Dispute Resolution Division Hotline at 1-877-337-2237 or by email at ferc.adr@ferc.gov.

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cont'd

EXHIBIT B

Impact to Rover's Budget

In an August 11, 2015 meeting in our office with seven Rover personnel, Rover indicated to us that "\$100 per foot was not going to happen" and "we have to get a 13 1/2 % to 15% return to our investors". We were surprised and disappointed by these comments for several reasons. It should not be what Rover wants to offer, but what damages landowners will suffer from this unwanted project. Also, Rover's own numbers in its FERC filing show 6 1/2% interest on borrowed money and 13% return to equity investors for an overall average return of 9.75%.

In the August 11, 2015 meeting referred to above, Rover indicated to us that if it paid landowners \$100 per foot, Rover's project would be unprofitable. Our firm has hired an outside contract CPA/Chief Financial Officer to review Rover's public budget information and provide a detailed analysis of the budget implications if Rover pays our clients an average of \$150 per lineal foot of ROW. Based on this analysis, it appears there will be minimal impact to Rover's budgeted Profitability and Cash Flow, and little chance of the project being unprofitable. Below is a summary of the analysis:

1. First, it was estimated that Rover would need to increase its budget for ROW acquisitions by only approximately \$42 Million, including an incremental accrual for AFUDC.
 - a. Emens & Wolper represents approximately 325,471 lineal feet of easement (ROW).
 - b. This additional \$42 Million of ROW was calculated by first determining a difference in what Rover budgeted per Lineal Foot of ROW and subtracting this amount from \$150. The analytical work performed by the CPA/CFO arrived at an estimated \$32 per lineal foot of ROW that was likely budgeted by Rover.
 - i. *To calculate an exact amount of difference, we request Rover provide us the actual amount budgeted for ROW and damages.*
2. Second, using this addition of \$42 Million of ROW to Rover's Original Budget, the CPA/CFO then calculated the impact to Rover's Profitability and Cash Flow.
 - a. In performing this analysis, the following assumptions were made:
 - i. Original Budgeted Revenues remained the same (a conservative approach as it is believed revenue would increase with a higher budget)
 - ii. Additional capital of \$42 Million was added to Gross Plant
 - iii. 50/50 Debt to Equity ratio was maintained; Debt was increased \$21 Million and Equity Holder Cash Contributions were increased by \$21 Million.
 - iv. Incremental Depreciation was calculated using the same assumptions in Rover's Original Budget
 - v. Incremental Interest was calculated using the same assumptions in Rover's Original Budget
 - vi. Incremental Ad Valorem Taxes (Ohio) were calculated using the same assumptions in Rover's Original Budget
 - vii. Impact to Income Tax Provision and Deferred Taxes was calculated using the same assumptions in Rover's Original Budget

The above is a conservative approach; however, if more information were available regarding the calculation of Rover's Original budgeted Revenue, the analysis could be adjusted. For example, if Rover provided the buildup of Budgeted Revenue from their Initial Shipper Precedent agreements.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81
cont'd

FOR SETTLEMENT PURPOSES ONLY – Rule 408 Discussions

Rover submitted to FERC a revised Budget in July, 2015 to reflect an In-Service date of December, 2016 for certain Supply Laterals and Mainlines A and B. Rover did not submit to FERC online a revised Exhibit L (Statements in Net Income, Balance Sheet and Statement of Cash Flow). If access to these revised statements was made available, a more current estimated impact to Rover's financial statements could be done. It is believed the impact of adding \$42 Million incremental ROW to Rover's Revised Budget would be even less significant.

- b. 3 Year Impact to Rover's Budget
- i. By adding \$42 Million to Rover's Original Budget, the 3-year cumulative impact to Net Income is only \$8.6M or a decrease from \$271.1 Million to \$262.5 Million while the 3-year cumulative impact to Cash Distributions to Equity Holders is only \$5.7M or a decrease from \$556.4 Million to \$550.7 Million (only a 1% decrease).
 - c. 5 Year Impact to Rover's Budget
 - i. Further analysis was done to estimate a 5-year cumulative impact. To provide a 5-year cumulative impact, the CPA/CFO first had to create Rover's budgeted Years 4 and 5 Income Statement, Balance Sheet and Cash Flow Statement. This was done using detailed information provided in the supporting Exhibits in Rover's FERC filings.

A more exact 5-year cumulative impact could be calculated if Rover provided its Years 4 and 5 Original Budgeted financial statements.
 - ii. The results of this analysis concluded that by adding \$42 Million to Rover's Original Budget, the 5-year cumulative impact to Net Income is only \$13.9 or a decrease from \$489.1 Million to \$475.2 Million while the 5-year cumulative impact to Cash Distributions to Equity Holders is only \$9.1 Million or a decrease from \$958.5 Million to \$949.4 Million (less than 1 percent).
 - iii. **Rover's overall cumulative 5-year rate of return remains above 9.75% (budgeted overall rate) with nearly \$1 Billion being distributed in cash to Equity Owners (45% of their Original Capital contributions) after 5 years.**
3. The above conclusions assume that NO amount of the Contingency Budget of \$259.7 Million is available to cover the \$42 Million incremental ROW needed to pay Emens & Wolper clients \$150 per lineal foot of easement. The amount of the Contingency budget is more than double the amount budgeted for ROW and Damages and it is reasonable to assume that some Contingency has been earmarked for incremental ROW and therefore the impact to Rover's budgeted financial results could be zero.

CONCLUSION: We offer these analyses in order to provide a framework for discussion with Rover and request that Rover meet with us to begin that discussion.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

EXHIBIT C

1 BEFORE THE
2 FEDERAL ENERGY REGULATORY COMMISSION

3 ----- x

4 IN THE MATTER OF: : Project No.

5 ROVER PIPELINE PROJECT : CP15-93-000

6 :

7 ----- x

8

9 Patrick Henry Middle School

10 7E-50 Road

11 Hamier, Ohio 43524

12

13

14 Monday, March 21, 2016

15 The above-entitled matter came on for Scoping

16 Meeting, pursuant to notice, at 6:00 p.m., Kevin Bowman, the

17 moderator.

POLASCK STATEMENT

25 MR. BOWMAN: Thank you, Mr. Emens. Our sixth

16

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81

1 speaker will be Ben Polasck.

2 MR. POLASCK: Good evening. I'm Ben Polasck. I

3 first want to start off by thanking the FERC and thank you

4 Kevin for your time and allowing us to comment this evening.

5 I am a third generation landowner and farmer, that will be

6 significantly affected by the proposed ETO Pipeline Project

7 in both Defiance and Fulton Counties. The Pipeline crosses

8 four farms, four different farms owned by my family and one

9 farm that I rent. My family has owned much of this land for

10 many years going back for many generations so this land is

11 our home, our passion, and our way of life. It is our

12 entire life. It is not just a business to us. We are

13 passionate about taking great care of our land.

14 I would like to thank the FERC for allowing me to

15 share some additional -- some significant concerns I have

16 after I reviewed the Draft EIS statement. I would also like

17 to thank FERC for taking so many of our comments into

18 consideration from the previous scoping meetings as well as

19 some of the comments that we filed directly with FERC. I

20 feel that the draft EIS does not accurately reflect the

21 long-term damage that's going to occur to the farm land when

22 the excavation occurs. This is especially true if at any

23 time the ground is disturbed when conditions are not

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

24 optimal.

25 Over the years we have taken great care not to

17

1 trod upon the land or disturb the soil when it is too wet or
2 the conditions are not fit. Even in these optimum
3 conditions, compaction does occur. The larger the
4 equipment, the more compaction. Things such as tractors,
5 spreaders, combines, etc. all can cause significant yield
6 reductions for many years if the traffic patterns are not
7 maintained.

8 Yield monitors indicate significant reduction in
9 production over pipelines that have been installed as many
10 as fifty years ago. In addition, if you look at satellite
11 photos or on Google Earth, or other satellite photos, you
12 can clearly see these pipelines some thirty years, forty,
13 fifty, sixty years ago that have been installed and clearly
14 see the effects they have on the land yet today.

15 I do have some photos of that that I would like
16 to submit to FERC as well to show some of this damage. What
17 struck me is that a couple of times this year I drove past
18 several pipelines that have been installed a long time ago

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81
cont'd

19 and there were 2-3 inches of snow on the ground except over
20 the pipeline. The heat from the gas is actually melting the
21 snow completely off the pipelines.

22 In addition, any excavators, staging pipe,
23 bulldozers or other heavy equipment will create a very
24 long-term environmental impact on the soil from compaction.
25 I would ask the FERC to clearly require Rover to address

18

1 this long-term environmental damage that will occur on the
2 land. It is not something that will go away in three years.
3 This will require a combination of remediation and
4 restoration efforts, compensation for the many years of
5 reduced productivity and ensuring that work only occurs when
6 conditions are optimal.

7 This is not something you can come in and simply
8 say tomorrow we are scheduled to lay a mile of pipe and we
9 have to do it. You have to look at the ground conditions
10 and make sure that you are not damaging the ground any more
11 than is absolutely necessary. In reviewing the Draft EIS,
12 it often appeared to me that more focus is put on conserving
13 wildlife and other environmental concerns, but not to the
14 farmers and the landowners.

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

15 I would like to ask FERC to give these
16 responsible landowners similar protection to what's given to
17 the bats that are nesting, the birds and the other wildlife
18 that may be disturbed by actually being near it. I also
19 work in construction as well so I understand how much work
20 -- a lot of the activities that go through, cleaning,
21 building, building paths and so forth. I have a lot of
22 respect for the highly-skilled Union workers that will be
23 doing this. I am sure they will do a very quality job.
24 However, some of these environmental impacts are beyond
25 their control if they are forced to put them in at the wrong

19

1 time.

2 In the many years we have been farming we have
3 moved over to a significant portion of our ground being
4 no-till ground. With no-till, we do not till the soil.
5 Tilling the soil, especially at the wrong times does
6 significant damage and destroys microbes in the soil and
7 also breaks down the soil structure. Many of the studies
8 that we have looked at show that in order to convert to a
9 no-till system takes 15 to 20 years to get the soil restored
10 back to the original conditions to get the micro-bacteria

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81
cont'd

11 where they need to be. Again when the soil is excavated as
12 it is going to be for this 42-inch pipeline, that's going to
13 take at least twenty years if not longer to restore that
14 soil.

15 In addition to the environmental and
16 socioeconomic impact on farmers such as myself that have
17 invested their life and both time and money to the land to
18 support their families could be detrimental. Our land is
19 not for sale however we do face the strong possibility that
20 it could be taken from us via eminent domain. This pipeline
21 will have a negative impact on our land and its production
22 for many generations, much longer than my lifetime, into my
23 children's and my grandchildren's.

24 As we realize the pipeline project is likely to
25 continue and I do understand the need for progress in

20

1 America to transport natural gas. We have attempted on
2 numerous occasions to negotiate with Rover to insure that
3 they will continue their project, but at the same time
4 reduce the environmental impact and protect the land for
5 future generations. However Rover has refused to respond to

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

6 our efforts to negotiate in good faith.

7 For over a year, I through my attorneys have
8 presented Rover items that need to addressed in an easement
9 to mitigate these environmental impacts and we've requested
10 written proposals from Rover detailing these safeguards in
11 terms that would be acceptable to both ourselves and Rover.
12 However, Rover refuses to provide any written agreement to
13 address these issues. The terms of the agreement are just
14 as important as financial compensation. My attorneys have
15 provided to Rover a written list of these details that we've
16 desired in mutual agreement, however Rover will not agree or
17 disagree in writing to these conditions.

18 Rover is absolutely refusing to negotiate in good
19 faith. It is currently my understanding that less than
20 thirty percent of the right-of-ways have been secured by
21 Rover for this project. While I understand the limited use
22 of eminent domain is necessary once a Certificate of
23 Necessity is issued, that will help obtain a few holdouts
24 that are not negotiating. However, it seems completely
25 unreasonable for Rover to think that they can acquire up to

21

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81
cont'd

1 seventy percent of the land needed for a project by eminent
2 domain, especially if landowners have come to negotiate and
3 Rover is refusing. Clearly, this shows Rover's complete
4 disregard for the landowners and the effects that this
5 project is going to have on them.
6 Instead of communicating and negotiating in good
7 faith, Rover is sending threatening letters, called and
8 asked to stop using the attorneys because it's too
9 complicated for them and failed to provide the information
10 we are requesting to help us negotiate fairly with them. I
11 ask FERC to require Rover to negotiate in good faith and to
12 prevent Rover from using eminent domain or issuing a
13 certificate until we can clearly establish that they have
14 attempted to negotiate with landowners in good faith. FERC
15 should also require that a significant percentage of the
16 land be obtained with negotiated agreements prior to
17 allowing Rover to use eminent domain to obtain the remaining
18 land needed.
19 This project should not be permitted going
20 forward until Rover can demonstrate that they have
21 negotiated in good faith and are addressing these
22 environmental concerns with the landowners. As each
23 property is different, it is very important that each

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

24 landowner has an opportunity to have their issues addressed.

25 In addition to loss of production, I also request that FERC

22

1 ensure Rover addresses the environmental impact the pipeline

2 will have on our homesteads. By putting the pipeline right

3 next to our homes through our front yards, we will see a

4 significant impact on our property value. FERC needs to

5 clearly require Rover to address the significant decrease in

6 our homes' value. We ask the members of FERC to think about

7 would you pay the same for a home that had a pipeline

8 running right through the front yard.

9 Another environmental issue I ask FERC to fully

10 address is drainage. Rover has worked with Land Stewards to

11 plan some of the mediations and corrections to the tile

12 systems that we have grading in our fields. Following the

13 plans to work with the Land Stewards' drainage consultants,

14 he recommended placing the tile at twenty foot rather than

15 at thirty-three foot that are on some of our properties to

16 help compensate for the drainage issues as he saw compaction

17 as a significant issue after the pipeline is installed.

18 However, after a few calls to him, it was moved to another

19 person assigned to work on it with me.

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81
cont'd

20 At this time I was told although their drainage
21 experts recommended the twenty-foot basin, Rover would not
22 approve this change to the plans. After many more hours of
23 phone calls and emails, Land Stewards worked with me to
24 present plans to Rover that appeared to be acceptable to
25 both myself and Land Stewards noting that they were

23

1 reasonable and economically sound. However, Rover has yet
2 to approve any of those plans. However, Rover did
3 immediately reject one of the plans as being too expensive.
4 Now even though this plan is approved by Land Stewards and
5 the pricing was within reasonability according to Land
6 Stewards, Rover rejected that plan. After they rejected it,
7 I contacted Land Stewards and asked them to have Rover
8 contact me or Land Stewards to provide some options that we
9 can use to -- in the current mediation, however this is
10 several months ago and I have still heard nothing from
11 Rover.

12 As I pointed out earlier trenching, excavating
13 and any work of land can only be done under proper soil
14 conditions. This also holds true for installing and
15 modifying drainage tile. Last fall provided almost three

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

16 months of perfect weather conditions and soil conditions to
17 have provided some of this pre-pipeline work that is
18 required. However, I made multiple attempts to contact
19 Rover through Land Stewards to get approval on the plans,
20 and they would not approve any of these. It would have been
21 very nice to have this three month window to get those
22 changes made.

23 Again, I think this goes to show Rover's complete
24 disregard for the environmental impacts that they are going
25 to have by putting in this pipeline. We are trying to work

24

1 with Rover to reduce the negative impacts, the environmental
2 impacts that you are going to see but again Rover refuses to
3 work with us. I ask FERC to require Rover to comply with
4 the file remediation plans that are provided by their
5 consultants and landowners in agreement and also I do thank
6 FERC for recommending local drainage contactors to be
7 available to put this in and I ask that they continue to
8 keep that in the EIS statement.

9 In addition, I think it is vital that FERC
10 require Rover to approve these plans and provide a

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81
cont'd

11 reasonable amount of time and proper soil conditions to
12 perform the pre-pipeline tile mitigation. It is FERC's job
13 to balance public needs with the negative impacts of
14 landowners and other stakeholders of the Project. I've read
15 numerous letters and comments to FERC from those that would
16 be getting a temporary employment lasting one year or less.
17 While I appreciate their desire for work and understand that
18 they are very skilled, I do ask FERC to balance this very
19 short-term benefit with the long-term negative impacts that
20 landowners will face for this and many future generations.
21 In summary, I ask a few things of FERC: ensure
22 that tile plans are approved, adequate time is given for the
23 installation of the tile with proper conditions by local
24 contractors. This is going to allow all three pipeline
25 drains to be corrected prior to Rover beginning construction

25

1 of the pipeline project. I would also ask that FERC only
2 allow those construction activities when ground conditions
3 are dry and correct to reduce the compaction and other soil
4 damage that's going to occur during pipeline installation.
5 I ask FERC to require Rover to address and compensate for

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

6 yield losses and other environmental damage that will last
7 decades into the future.
8 I also ask that FERC require Rover to negotiate
9 in good faith so that proper terms can be agreed upon to
10 reduce the negative environmental impacts of the farmers and
11 landowners and their homesteads before they would allow FERC
12 to use eminent domain to take that land. Again, I do
13 understand if there's some holdouts that they do need
14 eminent domain to move the project forward and I do
15 understand that, however I think that seventy percent of the
16 landowners not agreeing to Rover's demands at this point
17 shows that Rover is not negotiating in good faith.
18 I would also welcome an opportunity to meet with
19 FERC and if appropriate, Rover, on my farm or homestead to
20 show them firsthand the significant environmental impacts
21 that we face should this project be completed. As I realize
22 it is likely that this Project will be moving forward, I do
23 ask FERC to perform its duties and require Rover to mitigate
24 as much as possible the environmental impacts it will cause
25 for landowners. I look forward to working with FERC on

26

1 solutions to these issues. Thank you for your time this

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81
cont'd

2 evening.

3 MR. BOMAN: Thank you Mr. Polasck.

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

EXHIBIT D

1 BEFORE THE
2 FEDERAL ENERGY REGULATORY COMMISSION
3 ----- X

4 IN THE MATTER OF: : Project No.
5 ROVER PIPELINE PROJECT : CP15-93-000

6 :
7 ----- X

8
9 Patrick Henry Middle School
10 7E-50 Road
11 Hamier, Ohio 43524

12
13
14 Monday, March 21, 2016

15 The above-entitled matter came on for Scoping
16 Meeting, pursuant to notice, at 6:00 p.m., Kevin Bowman, the
17 moderator.

RETTIG STATEMENT

3 MR. BOWMAN: Thank you, Mr. Yates. Third speaker
4 tonight is Rob Rettig.
5 MR. RETTIG: Hello, my name is Rob Rettig. I'm a
6 farmer in Henry County. I want to thank you for the

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81
cont'd

7 opportunity to speak on behalf of the farmers along the
8 affected Rover Pipeline route. The proposed pipeline runs
9 through three of my family's farms and four others that we
10 have been entrusted to operate. My formal education is in
11 economics. I am a local school board member therefore I can
12 understand and fully appreciate the potential positive
13 impacts of the proposed pipeline. However, as a citizen of
14 a country which obviously respects an individual's property
15 rights, I would expect that those who sacrificed for the
16 benefit of a for-profit entity would be honorably treated
17 and properly compensated.

18 The farms that we operate that lie in the path of
19 the proposed pipeline are extremely productive. We have
20 repeatedly been told that there is an expectation of slowed
21 productivity but will return to normal in like three years.
22 Our past experience with evasive activities of these
23 clay-based soils would indicate otherwise. Experience also
24 would indicate that the long-term damage to soil structure
25 will likely be predicated by soil and weather conditions at

11

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

1 the time of the installation. We will be able to
2 effectively measure productively in perpetuity with our
3 geo-reference spatial equipment. If Rover and others are
4 convinced that one hundred percent productivity is the
5 expectation, I would suggest commitment to a long-term
6 compensation agreement based upon this easily measured
7 productivity.

8 It alarmingly appears that Rover is using as its
9 baseline for some negotiations on eminent domain cases --
10 data based on less productive and differently structured
11 soil. Other pipeline projects have noted three times the
12 amount of per foot procurement of access rights. Access
13 rights procurement is a minute portion of Rover's overall
14 effort.

15 We've also been -- by Rover's reluctance to
16 accept the drainage mediation plans as recommended by its
17 agent, Land Stewards and our local contractors. If these
18 remediation efforts were handled incorrectly, the cost to
19 the individual landowner could be tens of thousands of
20 dollars on an annual loss basis. Of course and off-putting
21 factor is the fact that the landowners and landowner reps
22 have invested hundreds of hours of individual time and
23 hundreds of miles of travel to meetings that of course could

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81
cont'd

24 have been otherwise invested.

25 I also understand that some of our requests might

12

1 be difficult or impossible however we have a request, at

2 least at face time, do not seem unreasonable and would save

3 Rover thousands of dollars in remediation costs. It is

4 asking that Rover alter the route by 84 feet at either end

5 of the half-mile section. This would result in the pipeline

6 running exactly parallel to the existing powerlines and

7 would eliminate all the need for collecting -- domains.

8 This parcel is OH-HEM 49.

9 Thank you again for this opportunity. You have

10 been receptive to expressed concerns in the past, and for

11 that I ask for your agreement. Attached is my contact

12 information.

13 MR. BOWMAN: Thank you Mr. Rettig.

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Appendix T

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd



ROVER PIPELINE LLC
An ENERGY TRANSFER Company

EXHIBIT E

7100 Whipple Ave. NW, Suite B
North Canton, Ohio 44720

February 26, 2016

Re: Rover Pipeline LLC

Dear Stakeholder:

You are receiving this letter to provide you with an update with regard to the Rover Pipeline Project.

On February 19, 2016, the Federal Energy Regulatory Commission (the "FERC") issued its Draft Environmental Impact Statement ("DEIS") for the Rover Pipeline Project. This is an important step forward in the administrative process and brings the project one step closer to final approval by the FERC.

The DEIS is a lengthy document which concludes that with certain mitigative measures, there are no significant environmental impacts preventing the Rover Pipeline Project from moving forward. The DEIS provides an opportunity for public comment on the environmental impacts associated with the project (see attached notice from FERC), which FERC will analyze and incorporate into the final EIS which is anticipated to be issued by late July 2016. Once the final EIS is issued, within a short period Rover expects that the FERC will give final approval for the Rover Pipeline Project through a Certificate of Public Convenience and Necessity and then Rover will initiate construction of the project.

As the process has now taken another step forward, Rover is reaching out to you once again in an attempt to amicably negotiate an easement agreement. Rover wishes to engage in easement discussions with you either directly or through your designated attorney or representative, but believes there is a real opportunity to reach an agreement and requests that you encourage your representative to communicate with the Rover right-of-way representatives to negotiate a fair and equitable easement. If you are represented by counsel, please have your attorney contact us and begin to work out the details of the easement and to resolve the compensation terms.

Unfortunately, Rover believes that thus far certain negotiations have been prevented by unrealistic expectations established by a few groups of third parties and/or attorney groups with regard to the compensatory value of the easements and that no action during this stage of the project will result in a better advantage to conclude the negotiations in the landowner's favor. However, those expectations and tactics are counter-productive and could be a disadvantage for you to work towards a mutually agreeable easement. In reality, the delay tactics actually will result in decreased final compensation for the easement, as well as prevent the development or agreement of terms that protect your land and resources on your terms, as opposed to a court ordered easement and compensation or an easement that is not tailored to your specific property. Rover understands that there are many rumors and statements being made in the public regarding the alleged value or price Rover will voluntarily pay for the easements and we

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would like to clear the air of rumors and talk facts and figures in real terms as they relate to your property.

In an effort to minimize any confusion and misunderstanding, Rover is again reaching out to you or your representative to discuss the terms of an easement across your land as well as to discuss a fair and realistic offer of compensation. Rover has hired many experts to plan the project and, in particular, to offset and mitigate adverse impacts to agricultural property. In that regard, Rover has extended an invitation to all landowners to develop an agricultural crossing plan that will contemplate any drain tile crossings, relocations or replacement plans on an individual basis.

Rover encourages you to take advantage of this time to work with our team of experts to develop the plan and to reach an agreement so as to mitigate any adverse impacts as much as possible under mutually agreeable terms instead of postponing those discussions to the last minute where you or Rover cannot accommodate or take advantage of early planning opportunities.

Despite the rumors and certain miscommunications or non-communications, Rover has done market value studies as well as appraisals to determine the fair market value and price for the easements. Rover's current offer is well above the fair market value of the easements. Given the opportunity, Rover will share its market data, will provide recent and relevant data from comparable public data records for past federal court awards for similar projects under FERC's jurisdiction for easements in the project region and will share with you the certified appraisals that have been developed on a per property basis. As a point of reference, the previous federal court decisions are well below what Rover is offering and in fact the data indicates an average lower per linear foot price by approximately thirty (30%) for agricultural properties as determined based upon a true-up of the assessment for values in 2015/2016 dollars. The analysis and data for which Rover is comparing was for the Rockies Express Pipeline commissioned in 2009, which was a similar 42-inch natural gas project in Ohio. Rover is willing to share this data as a point of reference to correct the record for what is a realistic expectation for monetary compensation for an easement or can provide the analysis to your attorney or representative to validate as part of the easement process.

At this point, Rover requests that you (or your representative) contact Mark Roberts at (234) 401-9680 so that negotiations and discussions can move forward.

Thank you for your anticipated cooperation and we look forward to hearing from you.

Sincerely,



Joey Mahmoud
Senior Vice President

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RUTGERS
New Jersey Agricultural
Experiment Station

EXHIBIT F

**Assessment of Soil Disturbance
on Farmland**

Presented to

New Jersey State Agriculture Development Committee

by

Dr. Daniel Gimenez
Daniel Kluchinski
Dr. Stephanie Murphy
Loren S. Muldowny

RUTGERS School of Environmental
and Biological Sciences

RUTGERS New Jersey Agricultural
Experiment Station

April, 2010

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Authors

Dr. Daniel Gimenez

Associate Professor, Soil Science/Soil Physics
Department of Environmental Science
Rutgers - The State University of New Jersey

Ph.D. Soil Science/Soil Physics, University of Minnesota
M.S. Agrohydrology, Agricultural University of Wageningen (The Netherlands)
B.S. Agronomy, National University of Tucumán (Argentina)

Daniel Kluchinski

County Agent I (Professor) and Chair
Department of Agricultural and Resource Management Agents
Rutgers - The State University of New Jersey

Assistant Director
Rutgers Cooperative Extension, New Jersey Agricultural Experiment Station

M.S. Weed Science, Purdue University
B.S. Plant Science/Agronomy, Rutgers University

Dr. Stephanie Murphy

Director, Soil Testing Laboratory
Rutgers Cooperative Extension, New Jersey Agricultural Experiment Station

Instructor, Physical Properties of Soils, Soils and Water
Department of Environmental Science
Rutgers - The State University of New Jersey

Ph.D. Soil Biophysics, Michigan State University
M.S. Soil Erosion and Conservation, Purdue University
B.S. Agriculture, The Ohio State University

Loren S. Muldowny

Lab Technician, Soil Testing Laboratory
Rutgers - The State University of New Jersey, New Jersey Agricultural Experiment Station

M.S. Environmental Science, Rutgers-The State University of New Jersey
B.S. Biochemistry, Rutgers-The State University of New Jersey

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Assessment of Soil Disturbance on Farmland

Purpose of the Summary

This summary was produced to assist in decision-making by the State Agriculture Development Committee (SADC) about the impact that selected farm activities have on soil characteristics, how negative impacts on soil properties may be remediated, and whether these activities should be encouraged or discouraged on New Jersey preserved farmland. New Jersey's Farmland Preservation Program consists of the purchase of development rights to parcels of land with the intention that the land use will henceforth be limited to agricultural and horticultural production. The land title is attached to a deed of easement which specifies the terms of the sale, including restrictions placed on the use of the property. Generally, non-agricultural uses are not permitted. In addition, no activity is permitted which would be detrimental to water conservation, erosion control, or soil conservation. Our intent is to discuss these issues with the acknowledgement that impacts on soils differ due to site-specific factors and properties, and that site specific remediation practices may be needed to alleviate or mitigate any negative impact on soil properties. We also present our findings and recommendations without considering the extent of disturbance (acreage) or purpose for it, but acknowledge the goal of maintaining soil quality, health and conditions that allow for current and future uses for agricultural and horticultural production.

Literature Search Limitation and Scope

Because the scientific literature on soil degradation is vast and spans many decades, continents, and climatic zones, the literature search used to develop this summary was limited to research on humid, temperate zone agriculture, similar to New Jersey conditions and soils, disregarding a sizable literature from arid and semi-arid regions as well as tropical climate regimes. In addition to the literature review findings, our professional expertise and opinions and common professional knowledge are the basis for the statements and recommendation made within.

Guidance from the New Jersey State Agriculture Development Committee (SADC)

Ranking criteria are applied when land parcels are selected for the Farmland Preservation program. Part of this ranking is a determination of the soils based on a classification system developed by the New Jersey unit of the Natural Resources Conservation Service.

- **Prime farmland** is land that has the best combination of physical and chemical characteristics (defined below) for producing food, feed, forage, fiber and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed according to acceptable farming methods, Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.
- Farmlands of **statewide** importance include those soils in land capability Class II and III that do not meet the criteria as Prime Farmland due to erosion hazard, wetness, or susceptibility to flooding. These soils are nearly Prime Farmland and economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce yields as high as Prime Farmland if conditions are favorable.
- Farmland of **local** importance includes those soils that are not prime or statewide importance and are used for the production of high value food, fiber or horticultural crops.
- Farmland is classified as **unique** if it is being used for special crops production.

(Source: <http://www.nj.nrcs.usda.gov/technical/soils/njfarmindex.html>)

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Although NJ soils are grouped into these four classifications, each individual soil's inherent properties and intrinsic agricultural productivity vary. Our approach in this analysis is to discuss specific management practices that may unintentionally or purposefully degrade soil characteristics and to make recommendation on how to remediate, when possible, any negative impacts. Any practice which results in the land no longer being tillable, or which forces a downgrade of the soil classification to more limited use, would make it less suitable for long-term agricultural sustainability and is contrary to soil conservation goals. However, soils of varying quality, or classification as listed above, will react to the impact to different degrees and may require remediation of differing types or lengths of time to be effective.

Soil Quality and Sustainability in Agriculture

Soil quality is defined as "the capacity of a specific kind of soil to function, within natural or managed ecosystem boundaries, to sustain plant and animal productivity, maintain or enhance water and air quality, and support human health and habitation" (USDA-NRCS, 2007). Considering the focus on function, specific functions of concern should be defined in advance when applying the concept of soil quality. Soil quality concepts are commonly used to evaluate sustainable land management in agricultural ecosystems, and preventing a decline in soil quality is essential to the concept of sustainability in agriculture. By analogy to living systems, the relative condition and functioning of the soil ecosystem is often referred to as soil "health".

An important part of the soil quality definition is that quality is specific to each kind of soil. The quality of a soil has two distinct aspects, *inherent* quality and *dynamic* quality. Inherent quality is use-invariant and represents intrinsic properties (qualities) of soils as determined by the factors of soil formation--climate, topography, biota, parent material, and time. The inherent quality of soils is often used to compare the capabilities of one soil against another, and to evaluate the worth or suitability of soils for specific uses.

Soil Quality as Influenced by Management

In contrast with *inherent* soil quality, which derives from soil-forming factors, *dynamic* soil quality can vary depending on how the land is managed. Management choices affect the amount of soil organic matter, soil structure, soil depth, water and nutrient holding capacity (USDA-NRCS, 2007). These in turn affect soil functions relevant to agriculture in general and to this study in particular, such as i) food and biomass production (include physical support of plants and habitat for roots), ii) storing, filtering and transformation of matter and energy (water, nutrients and organic matter) and iii) biological habitat and gene pool.

Use-dependent effects most often manifest in surface and near-surface layers result in an increase (aggradation), decrease (degradation) or sustained capacity of a soil to perform the functions listed above. The soil properties considered most representative of the overall soil health or quality include: organic matter content, soil structure, bulk density, infiltration rate, and activity of the biological community. Collectively, management will aggrade, sustain or degrade the quality of the soil. Management practices and uses of the land that have a positive (aggrading) effect on soil quality include for instance those practices leading to an increase in organic matter content. On the other hand, management practices causing compaction, erosion, or acidification have a degrading effect on soil quality and result in an increased input to maintain plant growth; thus precluding the concept of sustainability. A similar set of functions would apply to animal agriculture with additional functions related to waste management.

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Soil quality can be evaluated relative to a standard or reference condition that represents the full capacity of that soil to function for a specific use. Several systems have been developed to evaluate soil quality and soil health, and numeric soil quality indices have been created to facilitate a comparison of one soil against another as well as to evaluate the change in quality expected from a change in management. The limitation that a given soil can only be compared to its own full potential, or to another soil of the same inherent properties, remains. This is especially relevant to New Jersey soils which vary greatly in their inherent quality from one region and physiographic province to another. Therefore, while a condensation of soil quality into a single value may be of limited practical value, the exercise of assessing relative change in the important soil properties can be a useful tool in guiding decisions for management. In order to make decisions about management practices, a NRCS soil management plan could be used to assess if a planned practice or use will significantly destroy or impair soil quality, and include a remediation plan to restore the affected characteristic or factor.

Compaction

Soil structural integrity is always part of the minimum data set for the evaluation of soil quality, and compaction with its damage to soil structure and/or tight packing of soil particles is the most widespread kind of soil physical degradation across all soil textures. It is recognized as a ubiquitous problem in the agriculture of all temperate-zone industrialized countries. The degree and depth of the disturbance by compaction, as well as soil type, influences whether a remedy is possible or feasible, or whether the damage is permanent.

To the extent that soil drainage is impaired, compacted soils are relatively wet in the spring which slows soil warming and results in delayed planting. Equipment and fuel requirements for tillage of compacted soil are increased. Winter freezing/thawing cycles are only minimally helpful at alleviating compaction and only near the surface. The major consequences of agronomic compaction are summarized below.

Soil structure is destroyed.

- Soil aggregates of structured soils are destroyed, and particles are re-oriented into platy structure (having primarily horizontal fissures) or kneaded into a high-strength mass. Subsequent tillage may break the mass into clods but does not restore the original structure. In coarse-textured soils, particles are forced into a close-packing arrangement, and pore size distribution is proportionately affected.
- Total pore space of the soil is decreased.
- Larger pores, which function as conduits for water, air, and roots, are preferentially destroyed, decreasing permeability, aeration, and root growth. Not only size but also continuity of pores is reduced.

Plant growth is negatively affected.

- Cool, wet soils (as may result from poor drainage of compacted soils) delay planting and reduce and slow germination and crop development.
- Roots are prevented from proliferating in the topsoil and extending to the subsoil because of high soil strength (resistance to penetration).
- Crops with limited root systems are unable to take up adequate water and nutrients and are susceptible to induced drought, nutrient deficiencies, and aeration stress.
- Plants are stunted and display delayed development.
- Stressed plants are susceptible to disease and insect damage.
- Crop yields are reduced.

Natural hydrology is circumvented.

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- Reduced macro-pore-space results in poor infiltration and can result in excess puddling and/or increased runoff volumes and rates. Weight of construction equipment corresponding to differing levels of compaction is not as important to infiltration rate as whether compaction occurred at all, with compacted soil effectively acting as an impervious surface (Gregory, et al, 2006).
- Increased water volume in storm drains and streams leads to flooding hazards.
- Groundwater recharge is reduced along with stream base flow during dry periods.
- Supply of fresh water is decreased.
- Even in cases where topsoil compaction is relieved and water can infiltrate, subsoil compaction limits internal drainage. "Perched" water in the soil profile can create anaerobic zones, presenting further risks to roots, and increases susceptibility of topsoil to erosion.

Increased water runoff poses a water pollution hazard.

- Increased water runoff speed and volume results in increased chemical as well as biological contaminant load to streams and other water bodies.
- Risk of soil erosion increases with increasing runoff.
- Soil particles themselves ("suspended solids") are detrimental to water quality but also transport nutrients (especially phosphate) which can be pollutants.

Soil compaction is not easily or rapidly remedied.

- Surface tillage treats - but does not remediate - surface (8-10") compaction.
- Tillage after compaction yields clods rather than aggregates; additional tillage is needed to break up clods and smooth ground to create a seedbed. Broken up clods still do not function physically or biologically like naturally formed aggregates.
- Because of tillage-induced loss of soil strength, "loosening inevitably brings the risk of greater subsequent compaction" (Gabriels, et al, 1997).

Biological amelioration has been used for long-term treatment.

- Roots of grasses and deep tap-rooted crops help penetrate compacted layer.
- Tree roots can penetrate highly compacted soil (1.6 g/cm³ clay loam) and increase infiltration rates under experimental conditions (Bartens et al., 2008).
- Organic matter amendments promote earthworm populations and other soil organisms, whose activities loosen the soil and re-create structure.
- Treatment may entail years of remediation effort and expense without a saleable crop and reduced yields until soil conditions improve.

Compaction often reaches subsoil (12-20" or more), beyond the reach of normal tillage operations.

- Subsoil "ripping" or deep tillage would be required to break up deep compaction, requiring special equipment and high energy expenditure.
- Limited area is treated per pass.
- As with surface tillage, there is "risk of greater subsequent compaction".
- Subsoil compaction is a long-term and possibly unsolvable problem; depending on degree of compaction, recovery may require from 3 to 9 or more years, or the damage may be permanent. Deliberate compaction, particularly with vibratory forces, increases the depth and degree of compaction possible.
- Maximum compaction (or optimal compaction sought by engineers of loessial silt loam can result in density of about 105 pounds per cubic foot, about equal to 1.68 g/cm³ or 36.6% total porosity. Compare this to "ideal" soil density for plant growth: 50% porosity, 1.32 g/cm³.
- Vibratory compaction (applying dynamic or time-variable load) is a more "efficient" (severe) method of compaction than static loading.
- There is no reference to attenuation time of a compacted condition for engineering purposes. The assumption is that when done well, it will not loosen naturally--it is a permanent change.
- Soil compaction for engineering purposes results in a nearly impermeable surface or layer.

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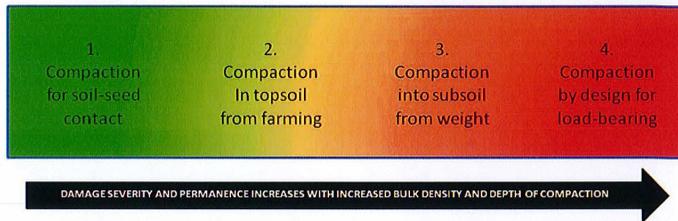
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Compaction as a Continuum

An idealized soil in good agronomic condition is often depicted as having 50% of its volume occupied by soil mineral and organic matter and 50% of its volume consisting of pore space. This pore space may be occupied primarily by air or water or a combination of both in relative amounts depending on recent precipitation, internal drainage, and uptake of water by plants rooted in the soil.

As illustrated in Figure 1, there is a continuum of degrees of compaction ranging from light compaction needed to prepare a seedbed (level 1) to severe compaction designed for engineering purposes and that would preclude plant growth without remediation practices (level 4).

Figure 1. Degrees of soil compaction often encountered in agricultural operations, ranging from mild (1) to most severe (4).



A description of those compactions levels follow:

1. Acceptable compaction occurs after tillage and planting, where soil is pressed against the newly planted seed. Good contact between soil and seed is important for germination, keeping soil moisture in contact with the seed. These types of compaction are understood to be acceptable and necessary for many types of agricultural production.
2. Compaction in the topsoil resulting from field operations beyond primary and secondary tillage. This category of compaction is negative and unintended, but difficult to avoid. It can be partially remedied by management options of two kinds: i) additional field operations or practices, such as planting of cover crops and green manures for the purpose of improving soil structure, or ii) acceptance of reduced crop yield. The extent of impact is greatly dependent on site-specific soil properties including soil texture, soil moisture conditions, and production practices being used.
3. Compaction that extends beyond the topsoil and into the subsoil may be beyond economically feasible remediation, depending on the depth of the damage. In an agronomic setting, the topsoil is the Ap horizon, and its depth is determined by the reach of conventional tillage equipment, up to approximately 30 cm or 12 inches. Where the depth of subsoil compaction is no more than 50-60 cm or 20-24 inches, possible remedies may include a lengthy rotation with deep, tap-rooted species in combination with the contracting of specialized subsoiling operations. Each carries a substantial direct or opportunity cost which may make any remedy unfeasible, depending on the value of the land in full production. Subsoil compaction is normally considered permanent damage, and may be manifested in reduced crop yields, impeded root growth, and decreased water percolation.
4. Deliberate compaction of soil in the context of structural engineering and slope stabilization is more drastic still. No overlap is found between the appropriate compaction required for field production and the engineering compaction specified for load-bearing construction. The literature does not consider the effects of such extreme compaction on crop yield since the context and intent in such cases is a permanent conversion of soil as a growth medium to soil as an

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engineering medium. For instance, deep tillage is used to alleviate compaction on mined sites, but when this practice is used for reclaiming severely compacted soils to plant forest, the return on the investment could be neutral to negative (Sweigard et al., 2007). In agriculture enterprises, the acreage that is converted to this state should be minimized if the objective is to maintain as much of the preserved farmland in a productive and quality state. This limitation however may exclude specific practices that are necessary for some types of agricultural production; our intent is to solely discuss this from a soil quality and health standpoint.

Focus of Research on Compaction and Remediation

Research on agricultural compaction is normally undertaken to minimize it, prevent it, remediate it, measure it, or compute yield reduction and other damages resulting from it. No research literature was found on the subject of site remediation following intentional compaction for engineering/construction purposes (level 4 as described above). Some literature exists on restoration of normal hydrologic function to unpaved logging roads in forests, on remediation and restoration following military training operations, and on remediation of utility rights of way through agricultural areas. Land reclamation following surface mining may provide a good indication of the magnitude of the restoration required following compaction for structural engineering purposes. This is extraordinarily costly restoration requiring specialized equipment not normally associated with agriculture. While it may be technically possible, in the absence of any budgetary limitation, to restore land productivity following such drastic disturbance, it is not considered feasible given any reasonable level of expected economic return (ten-year-old numbers range from \$5000 to \$20,000 and more per acre).

Compaction is not always recognized by the land user as a source of yield reduction. When land is partially degraded but still producing an economic yield, the land manager will typically modify his management to compensate for whatever is limiting to production. In many cases, rather than resulting in a reduction of yield, compaction damage manifests in the need for increased energy use, more frequent field operations, and higher fertilizer and water use - increased inputs which would not be needed in well-structured soil.

Subsoil compaction, below the depth of 30 cm or 12 inches (tillage depth), is usually considered a permanent degradation of agricultural land. The literature is full of statements that subsoil compaction must be avoided rather than remedied. As with land restoration following strip-mining, this may reflect the extreme cost of restoration rather than a declaration that no remedy is physically possible. Costs of restoration of desirable soil properties include the financial costs of soil amendments, labor, equipment, fuel and reduced yields. In addition, natural processes that improve soil, such as biological activity, soil aggregation, etc. depend also on time and site specific conditions that influence rates of improvement.

Specific Farm Practices

Most practices cannot be called destructive or constructive without knowledge of the impact of that practice on the soil resource of a specific site. For example, "leveling" which did not reduce the thickness of the topsoil could be a relatively benign operation of topsoil grooming used to increase infiltration if its use reduces overland flow. Alternatively, "leveling" could be highly destructive, such as a situation in which the entire topsoil horizon is penetrated or removed to match the elevation of some other point in the level plane. For this reason we focus on the extent of the soil disturbance resulting from the practice rather than the type of practice itself. Site-specific knowledge is needed to determine if a practice on a given site would cause a level of disturbance and reduction of soil quality that are incompatible with soil conservation.

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Tillage is generally accepted as a routine and acceptable agricultural practice. However, tillage usually results in some degradation of soil quality because it breaks down soil structure, compacts soil, and decreases certain populations of soil organisms. This must be balanced with the necessity of tilling soil to prepare the soil for the crop. On the other hand, the necessity of tilling is over-estimated by the farmer in many cases, and the soil disturbance by excessive tillage (again, a matter of degree) degrades soil quality more than necessary to grow the crop. Therefore minimization of the frequency of soil tillage (using minimum tillage to no-tillage practices) or the use of less destructive implements (moldboard or chisel plow versus rototiller) is recommended when possible.

Geotextiles are sometimes used in specialty crop production systems in New Jersey; and little if any information is available regarding their effects on biological/microbial properties of the underlying soil. As with the example of land leveling, it is the degree of attendant soil disturbance and not merely the use of geotextile that determines the effect of this kind of disturbance. Factors that can be expected to relate to effects of geotextile use on underlying soil include: relative infiltration and/or aeration/evaporation rates; traffic loads applied, placement of gravel/stone over geotextile, and type of geotextile. Despite the lack of specific research on the impact of geotextiles on soil properties, basic concepts of soil science can be used to deduce possible results. If used only as a weed-blocking cover over undisturbed soils, geotextile cover of soil might lead to a gradual reduction in soil organic matter (as oxidation occurs without any input of organic matter from growing plants) and subsequent consequences. It might be expected that this, and the resulting reduction in soil quality, can be remedied by removing the textile and using practices to increase organic matter levels.

Increasing soil organic matter levels (carbon) is essential, however, it is difficult to access the rate of accumulation with soil building practices. The amount of increase over time varies depending on the type of management practices employed. These include reduced tillage intensity, increased crop rotation complexity, inclusion of legumes in rotation, inclusion of winter cover crops, efficient use of fertilizers, pesticides and irrigation, and erosion reduction (Paustian et al., 2007; West and Post, 2002), as well as manure management, effective crop species selection (Conant et al, 2001) or the addition of non-traditional materials such as non-composted municipal leaves (Heckman and Kluchinski, 2000). The rate of organic matter accumulation, or loss, varies due to the type of management that impacted the soil originally, the soil's inherent properties and current status, climate and other factors. This ideally requires *in situ* measurement over time to determine impacts. Carbon Management Response curves are reported as useful tools (West et al., 2004) to estimate the loss and gain of carbon between changes in land use, but none of the specific farm practices of concern are included in this work.

Regardless, organic matter is undoubtedly accumulating in the soil when above practices are utilized. The organic matter values may not show significant increases for many years, but improvement in physical soil properties such as aggregation and moisture holding can be realized. Research in New Jersey found 3 consecutive annual applications of 10 and 20 dry tons/A of municipal leaf waste increased soil organic matter levels 0.5 to 0.7% (Heckman and Kluchinski, 2000) one year after the final application. These high rate applications of high carbon material are atypical and suggest that green manures or cover crops use would increase levels at a much lower rate. Therefore, organic matter levels may increase slightly over several years but potentially could take decades of sound management. However, the benefits of any small increase would be manifested in improvements several soil properties. Therefore it is difficult to provide a specific time frame necessary to restore soil organic matter levels to initial or higher levels.

Seasonal use of impervious cover over undisturbed soil where the soil is being used in its existing condition as the growth medium (high tunnel hoop houses): High tunnel usage continues to increase throughout the country in areas where climatic crop producing limitations can be overcome, essentially allowing for growing season extension in the spring and fall months. The construction, unlike permanent greenhouses, does not involve the compaction or excavation of soil to build or pour concrete foundations. Rather, wood framing is used to establish a based to which PVC tubes driven into the ground and looped

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to the opposite side of the frame are attached. Once the support structure is completed, polyethylene greenhouse covering is attached. Our professional assessments is the main impact of this situation will be the limitation of precipitation (presumably rainfall) infiltrating and passing through the soil. Principles of water conservation, as well as economic motivation, will limit irrigation to what is necessary to keep the root zone moist for plant growth and is unlikely to allow leaching to groundwater. The increased soil temperatures may be sufficient to increase soil biological activity; this may enhance nutrient availability but increase oxidation and loss of soil organic matter. Stormwater management may be necessary to handle excess water attempting to infiltrate/runoff the areas surrounding the impervious structures. Steps to remediate any negative impact on soil properties are minimal; the return to traditional agricultural production (*sans* hoop house) can be easily achieved and management practices such as introduction of organic materials into the soil will remediate any loss of soil organic matter.

Long term use of impervious cover (high tunnel hoop houses for two years or more): This situation is between those described above and below; effects will depend on time and specific practices.

Long term impervious cover (roof) over undisturbed soil: Based on our professional assessment and/or cited research, the potential limitations that a roof imposes on natural soil processes are the amount and quality of sunlight, and the amount and quality of water passing through. Certain situations (glass houses) may allow direct sunlight, while opaque roofs will allow only indirect sunlight or artificial light underneath. Light limitation will affect plant growth and therefore organic matter addition and microbiological population and activity in the soil. Elimination of natural precipitation from soil may or may not have an effect, depending on other management factors. Frequent irrigation may allow similar total amounts of water as expected in precipitation (about 40" in New Jersey), but it is likely that rarely would the soil experience near-saturation conditions that cause leaching through the soil profile to groundwater. This could be expected to become a problem when/if fertilizing, as in glasshouse or hoop house situations. Routine application of fertilizer without leaching water application can lead to salt build-up (salinity), another form of soil degradation not normally encountered in New Jersey's humid climate but common in agriculture of arid regions. Remediation steps would include the reintroduction of organic materials to increase soil aggregation and other physical properties and biological activity. Rainfall and irrigation, and use of soil amendments such as gypsum, would help to leach any accumulated salts over time, most likely over several months or a year or two, depending on the level of salt accumulation, rainfall patterns, and soil permeability and drainage.

Permanent structure and long term impervious cover with soil substantially disturbed (including geotextile, alone, geotextile with gravel cover, or concrete foundation): When the function of a soil is strictly an engineering media, there are wholly different sets of quality criteria. They would include optimum water content (for compaction), compressibility, bearing capacity, shrink-swell behavior, strength, (etc.). The quality indicators for the engineering function are by necessity contrary to those for the cropping (food and biomass production) and hydrology functions of soil. In particular, soil compaction is necessary to provide a stable base for a permanent structure. For that reason, effort is made to compact soil to the greatest degree and depth possible (and in the process, destroy naturally developed soil structure) or to remove any of the soil that may impede providing such a base. The densified soil underneath a permanent structure (impervious cover) may still contain organic matter, and that content may remain relatively constant considering conditions conducive to limited decomposition while organic matter additions are precluded by the built structure. The impervious nature of the structure and the compaction required to build it prohibits the soil from infiltrating, filtering, and passing precipitation to groundwater, so that all precipitation impacting the structure and the surrounding affected soil have to be controlled by otherwise-unnecessary stormwater devices/structures.

Geotextile and geotextile with gravel cover could actually mitigate the negative effects, but concrete foundation "seals" the fate of the entombed soil. Recently evolving study of urban soil provides data to predict concrete's effects. The classification system being developed for urban soils, expanding on the

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classification systems for "natural" soils, includes "Technosols" whose development and properties are dominated by their extensive disturbance by man (Schwartz et al. 2009). Sealing of soil by concrete, which also occurs on farmland, qualifies a soil as a Technosol. The imperviousness of this type of Technosol and its effects on infiltration, runoff, and water pollution is not the only effect; pH of the soil underlying the concrete and its subsequent or concomitant effect on geochemical cycles and biological activity (Charzynski et al., 2009) are additional factors that alter soil functions in the long term. For example, pH approaching 8.3 negatively affects most agricultural and horticultural crops.

Remediation under these conditions would be more difficult and costly. After the removal of any structures and debris, specialist deep-tillage equipment requiring significant energy and time inputs may allow for cultivation of the soil and incorporation of soil organic amendments. Over time, the status of the soil may improve to the point where some crop yields would be expected but they would be less than similar undisturbed soils. The primary impacts would be that the majority of the soils' inherent characteristics are negatively impacted and its profile would be permanently and negatively altered. Therefore, to preserve the soil in its natural state, or to lessen the impact of such practices, the extent of disturbance (acreage) should be limited or the purpose for it justified in a soil management plan.

Long-term impact of outdoor equine training tracks: The construction of equine training tracks may involve grading (leveling and/or smoothing), compacting the soil base, and layering with desirable footing material. Subsequent management includes tractor-mount raking and rolling to eliminate vegetation and to smooth and firm the surface. Spraying the surface with water when dry is typical to control dust and prevent wind erosion. The effects on underlying soil would include primarily compaction of the soil by both horse and tractor traffic. The surface soil texture is likely to be affected when the original soil is fine-textured or loamy; these soil types are most likely to have addition of footing material due to requirement for rapid infiltration/permeability and susceptibility to compaction when wet and hardness when dry (whereas sandy soil is inherently more suitable because of rapid water infiltration/permeability and poor cohesiveness). Organic matter content of the soil will be depleted as the original humus is oxidized and the only input is limited to the occasional manure pile. The surface of the (non-vegetated) track is likely to experience erosion by water during rainstorms and by wind when dry. Turf tracks are better protected from erosive forces, but additional management requirements are necessary to maintain the turf as a "crop" (nutrient levels, irrigation, etc.). Remediation steps would include the reintroduction of organic materials to increase soil aggregation and other physical properties and biological activity.

Impact of Practices on Soil Functions and Potential for Remediation

A qualitative summary of the practices discussed and their impact on selected soil functions is presented in Table 1. The matrix can serve as an initial comparison among practices. The assessment of impact of each practice is expected to vary with soil type and would need to be validated with either additional data or modeling.

As outlined, there is a continuum of impacts for any soil function (Table 1). Soil under almost any condition can be improved, but there is potential for a loss of productivity if the soil structure has been irreparably harmed. The determination of what is "acceptable" and "unacceptable" soil disturbance can only be established through research involving the set of practices under consideration and the soil and climate conditions in New Jersey. Most minor to significantly negative practices can be remediated through various cultural practices, however increasing costs (time, money) may be prohibitive and crop yield or quality may be depressed for periods of time.

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Table 1. Summary of the relative impact of practices on selected soil functions and their potential for remediation¹

Practice	Soil Functions			Potential for Remediation ²
	Food and Biomass Production	Storing, Filtering and Transformations	Biological Habitat and Gene Pool	
Geotextiles	Very negative (no biomass production)	Limited reduction of biological activity and of exchanges of matter and energy with the atmosphere.		Medium to High
Impervious Cover-Seasonal	Enhanced (biomass production augmented)	Limited negative or neutral impact due to short time scale.		Very High
Permanent Structures	Very negative impact on all soil functions			Very Low
Outdoor Equine Training Tracks	Very negative impact on all soil functions			Low

¹ Based on the authors' professional judgment and experience as no specific research on the impact of the listed practices was found in the literature review.

² Potential for remediation is based on the degree of alteration of soil properties and do not consider the spatial extent of soil modification introduced by a given practice.

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CO20-81
cont'd

References

- _____. 1994. Soil Compaction in Crop Production. Series: Developments in Agricultural Engineering 11, Editors: Soane, B. D. and Van Ouwerkerk, C. Amsterdam, The Netherlands: Elsevier Science B. V.
- _____. 2001. Farming Today for Tomorrow. Video lecture series on sustainable agriculture. Oregon State University, Corvallis, OR.
- _____. 2001. Land Disturbance Ordinance, Draper City, Utah.
- _____. 2004. Citizen's Guide to Farmland Reclamation. Office of Mines and Minerals, Land Reclamation Division, Illinois Department of Natural Resources. Springfield, Illinois.
- _____. 2004. Standards for the Farmland Preservation Program. Rock County, WI: Rock County Land Conservation Committee.
- _____. 2005. Soil Restoration: BMP 26. Water Quality Division, Idaho Department of Environmental Quality. Boise, ID.
- _____. 2006. Urban Soil Compaction and Storm Water Runoff. Newsletter "On the Land". Valley View, Cuyahoga Soil and Water Conservation District, Valley View, OH.
- _____. 2006. BMP 6.7.3: Soil Amendment and Restoration. Pennsylvania Stormwater Best Management Practices Manual, PA Department of Environmental Protection.
- _____. 2007. Restoring Compacted Soil. Fact sheet produced by Sound Native Plants, Olympia, WA.
- _____. 2007. Land Restoration After Pipeline Construction. Pamphlet of Iowa Utilities Board, Des Moines, IA.
- _____. 2007. Section 2E-5: Soil Quality Restoration. In: Iowa Stormwater Management Manual. Iowa State University, Ames, Iowa.
- _____. 2008. Construction Standard for: Backfill and Compaction for 16" and Smaller Water Main Trenches. METROPOLITAN UTILITIES DISTRICT, Omaha, NE.
- _____. 2008. Glossary of Soil Science Terms. Soil Science Society of America, Madison, WI.
- _____. undated. Guide to Sampling Soil Compaction Using Hand-Held Soil Penetrometers. Center for Environmental Management of Military Lands, Colorado State University, Fort Collins, CO.
- _____. undated. Military Soils Engineering. U.S. Army Field Manual, US Army Corps of Engineers.
- _____. undated. Soil Compaction Handbook. Trade publication of Multiquip, Inc., Carson, CA.
- Adams BA and Wulfsohn D. 1998. Critical-state behaviour of an agricultural soil. Journal of Agricultural Engineering Research 70(4):345-354.
- Ahuja LR. 2003. Quantifying agricultural management effects on soil properties and processes. Geoderma 116(1-2):1-2.
- Ahuja LR, Ma LW and Timlin DJ. 2006. Trans-disciplinary soil physics research critical to synthesis and modeling of agricultural systems. Soil Science Society of America Journal 70(2):311-326.
- Alakukku L. 1996. Persistence of soil compaction due to high axle load traffic. II. Long-term effects on the properties of fine-textured and organic soils. Soil and Tillage Research 37:223-238.
- Al-Dousari AMRM, S. Shahid. 2000. Soil compaction and sealing in Al-Salmi area, western Kuwait. Land Degradation and Development 11(5):401-418.
- Aragon A, Garcia MG, Filgueira RR and Pachepsky YA. 2000. Maximum compatibility of Argentine soils from the Proctor test; The relationship with organic carbon and water content. Soil and Tillage Research 56(3-4): 197-204.
- Arnalds A. 2005. Approaches to landcare - A century of soil conservation in Iceland. Land Degradation and Development 16(2): 113-125.
- Arvidsson J. 1998. Influence of soil texture and organic matter content on bulk density, air content, compression index and crop yield in field and laboratory compression experiments. Soil and Tillage Research 49:159-170.
- Arvidsson J and Håkansson I. 1996. Do effects of soil compaction persist after ploughing? Results from 21 long-term field experiments in Sweden. Soil and Tillage Research 39:175-197.
- Bachmann J, Contreras K, Hartge KH and MacDonald R. 2006. Comparison of soil strength data obtained in situ with penetrometer and with vane shear test. Soil and Tillage Research 87(1):112-118.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81
cont'd

- Bailey AC and Johnson CE. 1989. A Soil compaction Model for Cylindrical Stress States. Transactions of the ASAE 32(3):822-825.
- Bailey AC, Johnson CE and Schafer RL. 1984. Hydrostatic Compaction of Agricultural Soils. Transactions of the ASAE:952-955.
- Ball BC, D. J. Campbell, J. T. Douglas, J. K. Henshall, M. F. O'Sullivan. 1997. Soil structural quality, compaction and land management. European Journal of Soil Science 48(4):593-601.
- Barnes KK, Carleton WM, Taylor HM, Throckmorton RI and Vandenberg GE. 1971. Compaction of Agricultural Soils. American Society of Agricultural Engineers, St. Joseph, MI.
- Bartens J, Day SD, Harris JR, Dove JE, and Wynn TM. 2008. Can urban tree roots improve infiltration through compacted subsoils for Stormwater management? J. Environ. Qual. 37:2048-2057.
- Batey T, and McKenzie, DC. 2006. Soil compaction: identification directly in the field. Soil Use and Management 22(2):123-131.
- Benjamin JG, Nielsen DC and Vigil MF. 2003. Quantifying effects of soil conditions on plant growth and crop production. Geoderma 116(1-2):137-148.
- Blackwell PS and Soane, BD. 1981. A method of predicting bulk density changes in field soils resulting from compaction by agricultural traffic. European Journal of Soil Science 32(1):51-65.
- Boels D, Davies DB and Johnston AE. 1982. Soil Degradation: Proceedings of the Land Use Seminar on Soil Degradation (Wageningen, 13-15 October 1980). Rotterdam, The Netherlands: A.A. Balkema.
- Botta GF, Jorajuria D, Balbuena R, Ressia M, Ferrero C, Rosatto H and Tourn M. 2006. Deep tillage and traffic effects on subsoil compaction and sunflower (*Helianthus annuus L.*) yields. Soil and Tillage Research 91(1-2):164-172.
- Brady N and Weil R. 2002. The Nature and Properties of Soils, 13th ed. Prentice-Hall (Pearson Education, Inc.), Upper Saddle River, NJ
- Braunack MV, Hewitt JS and Dexter AR. 1979. Brittle Fracture of Soil Aggregates and the Compaction of Aggregate Beds. European Journal of Soil Science 30(4):653-667.
- Brown D, Hallman RG, Lee CR and Skogerbee JG. 1986. Reclamation and Vegetative Restoration of Problem Soils and Disturbed Lands. Noyes Data Corporation, Park Ridge, NJ.
- Cambardella CA, Moorman TB, Andrews SS and Karlen DL. 2004. Watershed-scale assessment of soil quality in the loess hills of southwest Iowa. Soil and Tillage Research 78(2):237-247.
- Carter MR. 2002. Soil Quality for Sustainable Land Management: Organic Matter and Aggregation Interactions that Maintain Soil Functions. Agronomy Journal 94:38-47.
- Cetin H. 2004. Soil-particle and pore orientations during consolidation of cohesive soils. Engineering Geology 73(1-2):1-11.
- Chamen WCT. 1996. Soil compaction in crop production. Soil and Tillage Research 37(2-3):201-207.
- Chaplin J, Min M and Pulley R. 2008. Compaction Remediation for Construction Sites. Report of Minnesota Department of Transportation, St. Paul, MN.
- Charzynski P, Bednarek R, Nowak A, Pokojska-Burdziej A. 2009. Properties and genesis of Ekranic Technosols of Torun airport. Soils of Urban, Industrial, Traffic, Mining and Military Areas 5th International Conference. New York City, Sep. 20-25, 2009.
- Chong S-K and Cowsert PT. 1997. Infiltration in reclaimed mined land ameliorated with deep tillage treatments. Soil and Tillage Research 44:255-264.
- Coder KD. 2000. Soil Compaction Impacts On Tree Roots. Warnell School of Forest Resources, University of Georgia Extension.
- Conant, RT, K Paustian, and ET Elliott. 2001. Grassland management and conversion into grassland: effects on soil carbon. Ecological Applications 11:343-355.
- Cook FJ and Knight JH. 2003. Oxygen transport to plant roots: Modeling for physical understanding of soil aeration. Soil Science Society of America Journal 67(1):20-31.
- Cowell SJ and Clift R. 2000. A methodology for assessing soil quantity and quality in life cycle assessment. Journal of Cleaner Production 8(4):321-331.
- Curran MP, Miller RE, Howes SW, Maynard DG, Terry TA, Heninger RL, Niemann T, van Rees K, Powers RF and Schoenholtz SH. 2005. Progress towards more uniform assessment and reporting of soil

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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CO20-81
cont'd

- disturbance for operations, research, and sustainability protocols. Forest Ecology and Management 220(1-3):17-30.
- Daddow RL and Warrington GE. 1983. Growth-Limiting Soil Bulk Densities as Influenced by Soil Texture. Watershed Systems Development Group: USDA Forest Service, Ft. Collins, CO.
- Daniels TL. 2004. Farmland Preservation Policies in the United States: Successes and Shortcomings. Department of City and Regional Planning, University of Pennsylvania.
- Defossez P and Richard G. 2002. Models of soil compaction due to traffic and their evaluation. Soil and Tillage Research 67(1):41-64.
- Defossez P, Richard G, Boizard H and O'Sullivan MF. 2003. Modeling change in soil compaction due to agricultural traffic as function of soil water content. Geoderma 116(1-2):89-105.
- DeJong-Hughes J, Moncrief JF, Voorhees WB and Swan JB. 2001. Soil compaction: Causes, effects and control. Report # FO-03115. University of Minnesota Extension.
- Dexter AR. 1997. Physical properties of tilled soils. Soil and Tillage Research 43:41-63.
- Dexter AR. 2004. Soil physical quality: Part I. Theory, effects of soil texture, density, and organic matter, and effects on root growth. Geoderma 120(3-4):201-214.
- Dexter AR. 2004. Soil physical quality: Part II. Friability, tillage, tilth and hard-setting. Geoderma 120(3-4): 215-225.
- Dexter AR. 2004. Soil physical quality: Part III: Unsaturated hydraulic conductivity and general conclusions about S-theory. Geoderma 120(3-4):227-239.
- Dexter AR and Cysz EA. 2007. Applications of S-Theory in the Study of Soil Physical Degradation and its Consequences. Land Degradation and Development 18(4):369-381.
- Diack M and Stott DE. 2001. Development of a Soil Quality Index for the Chalmers Silty Clay Loam from the Midwest USA. In: Sustaining The Global Farm. p. 550-555., International Soil Conservation Organization.
- Drewry JJ. 2006. Natural recovery of soil physical properties from treading damage of pastoral soils in New Zealand and Australia: A review. Agriculture, Ecosystems and Environment 114(2-4):159-169.
- Duiker SW. 2007. Soil Management. In: Agronomy Guide 2007-2008. Penn State University
- Ess DR, Vaughan DH and Perumpral JV. 1998. Crop Residue and Root Effects on Soil Compaction. Transactions of the ASAE 41(5):1271-1275.
- Faechner T, Pyrcz M and Deutsch CV. 2000. Soil remediation decision making in presence of uncertainty in crop yield response. Geoderma 97(1-2):21-38.
- FAO. 1977. Assessing Soil Degradation. Rome: FAO Soil Bulletin 34.
- Freese RC, Cassel DK and Denton HP. 1993. Infiltration in a Piedmont Soil Under 3 Tillage Systems. Journal of Soil and Water Conservation 48(3):214-218.
- Fritton DD. 2008. Evaluation of pedotransfer and measurement approaches to avoid soil compaction. Soil and Tillage Research 99(2):268-278.
- Gabriels D, Horn R, Villagra MM and Hartmann R. 1997. Assessment, prevention, and rehabilitation of soil structure caused by soil surface sealing, crusting, and compaction. In: Advances in Soil Science: Methods for Assessment of Soil Degradation. CRC Press, Boca Raton, FL
- Galan MB, Peschard D and Boizard H. 2007. ISO 14 001 at the farm level: Analysis of five methods for evaluating the environmental impact of agricultural practices. Journal of Environmental Management 82:341-352.
- Gallipoli D, Gens A, Chen G and D'Onza F. 2008. Modelling unsaturated soil behaviour during normal consolidation and at critical state. Computers and Geotechnics 35(6):825-834.
- Gameda S, Raghavan GSV, McKyes E and Theriault R. 1987. Subsoil Compaction in a Clay Soil. 2. Natural Alleviation. Soil and Tillage Research 10(2):123-130.
- Gameda S, Raghavan GSV, McKyes E and Therieault R. 1987. Subsoil compaction in a clay soil. I. Cumulative effects. Soil and Tillage Research 10:113-122.
- Gassman PW, Erbach DC and Melvin SW. 1989. Analysis of Track and Wheel Compaction. Transactions of the ASAE 32(1):23-29.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81

cont'd

- Gerowitz B, Isselstein J and Marggraf R. 2003. Rewards for ecological goods--requirements and perspectives for agricultural land use. *Agriculture, Ecosystems and Environment* 98(1-3):541-547.
- Gilman EF. 2007. Critical Bulk Density Values. In Series: Landscape Plants. University of Florida.
- Gliński J and Lipiec J. 1990. Soil Physical Conditions and Plant Roots. Boca Raton, FL: CRC Press, Inc.
- Goldsmith W, Silva M and Fischenich C. 2001. Determining Optimal Degree of Soil Compaction for Balancing Mechanical Stability and Plant Growth Capacity. Report # ERDC-TN-EMRRP-SR-26. U.S. Army Engineer Research and Development Center, Vicksburg, MS.
- Gray DH. undated. Optimizing Soil Compaction and Other Strategies. Grading and Excavation Contractor. Forester Press, Santa Barbara, CA.
- Green TR, Ahuja LR and Benjamin JG. 2003. Advances and challenges in predicting agricultural management effects on soil hydraulic properties. *Geoderma* 116(1-2):3-27.
- Gregory, J.H., M.D. Dukes, P.H. Jones, and G.L. Miller. 2006. Effect of urban soil compaction on infiltration rate. *J. Soil Water Conservation* 61:117-124.
- Gresser CS. Soil Compaction and Stability. (Informational sheet on compaction) Giles Engineering Associates, Waukesha, WI.
- Gupta SC and Allmaras RR. 1987. Methods to assess the susceptibility of soils to excessive compaction. *Advances in Soil Science* 6:65-100.
- Hakansson I and Lipiec J. 2000. A review of the usefulness of relative bulk density values in studies of soil structure and compaction. *Soil and Tillage Research* 53(2):71-85.
- Hamilton-Manns M, Ross CW, Horne DJ and Baker CJ. 2002. Subsoil loosening does little to enhance the transition to no-tillage on a structurally degraded soil. *Soil and Tillage Research* 68(2):109-119.
- Hamza MA and Anderson WK. 2005. Soil compaction in cropping systems: A review of the nature, causes and possible solutions. *Soil and Tillage Research* 82(2):121-145.
- Hebblethwaite PD and McGowan M. 1980. The effects of soil compaction on the emergence, growth and yield of sugar beet and peas. *Journal of the Science of Food and Agriculture* 31(11):1131-1142.
- Heckman, JR and D Kluchinski. 2000. Agronomics of land application of municipal collected shade tree leaves: 1. Soil properties. *J. Sustainable Ag. The Hawthorn Press, Binghamton, NY. Vol. 17(2/3), pp. 33-40.*
- Heller MC and Keoleian GA. 2003. Assessing the sustainability of the US food system: a life cycle perspective. *Agricultural Systems* 76(3):1007-1041.
- Hillel D. 1980. *Fundamentals of Soil Physics*. Academic Press, New York, NY.
- Horn R, Domzall H, Slowinska-Jurkiewicz A and van Ouwerkerk C. 1995. Soil compaction processes and their effects on the structure of arable soils and the environment. *Soil and Tillage Research* 35(1-2):23-36.
- Horn R and Fleige H. 2008. Risk assessment of subsoil compaction for arable soils in Northwest Germany at farm scale. *Soil and Tillage Research*, in Press, from online journal, pages not assigned yet.
- Hurni H. 1988. Principles of soil conservation for cultivated land. *Soil Technology* 1(2):101-116.
- Ivey JL and McBride RA. 1999. Delineating the Zone of Topsoil Disturbance Around Buried Utilities on Agricultural Land. *Land Degradation and Development* 10(6):531-544.
- Jones CA. 1983. Effect of Soil Texture on Critical Bulk Densities for Root Growth. *Soil Science Society of America Journal* 47:1208-1211.
- Jones RJA, Spoor G and Thomasson AJ. 2003. Vulnerability of subsoils in Europe to compaction: a preliminary analysis. *Soil and Tillage Research* 73(1-2):131-143.
- Karlen DL, Hurley EG, Andrews SS, Cambardella CA, Meek DW, Duffy MD and Mallarino AP. 2006. Crop rotation effects on soil quality at three northern corn/soybean belt locations. *Agronomy Journal* 98(3):484-495.
- Kennedy LA. 2005. Is Water Reuse Sustainable? Factor Affecting its Sustainability. *Arabian Journal for Science and Engineering* 30(2C):13.
- Kirby M. 2007. Whither soil compaction research? *Soil and Tillage Research* 93(2):472-475.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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20160411-5287 FERC PDF (Unofficial) 4/11/2016 4:03:25 PM

CO20-81
cont'd

- Kline R. 2006. Agricultural Comments on the Vancouver Island Transmission Reinforcement Project (VITRP) - Environment Assessment Certificate Application. Environmental Assessment Office, Ministry of Agriculture and Lands, Victoria, BC Canada.
- Kuht J, Reintam E, Loogus, H and Nugis E. 2003. Crop Rotation Effects on Soil Quality at Three Northern Corn/Soybean Belt Locations. *Agronomy Research* 1(2):6.
- Lal R. 2004. Agricultural activities and the global carbon cycle. *Nutrient Cycling in Agroecosystems* 70(2):103-116.
- Lal R, Follett F, Stewart BA and Kimble JM. 2007. Soil carbon sequestration to mitigate climate change and advance food security. *Soil Science* 172(12):943-956.
- Lal R, Iivari T, Kimble JM and Sobecki TM. 2003. Soil Degradation in the United States: Extent, Severity, and Trends. Lewis Publishers, Washington, DC.
- Laloui L and Cekerevac C. 2008. Numerical simulation of the non-isothermal mechanical behaviour of soils. *Computers and Geotechnics* 35(5):729-745.
- Langmaack M, Schrader S, Rapp-Bernhardt U and Kotzke K. 2002. Soil structure rehabilitation of arable soil degraded by compaction. *Geoderma* (105):141-152.
- Lapwood DHGAH, J. M. Hirst. 1967. An Effect of Soil Compaction on the Incidence of Potato Coiled Sprout. *Plant Pathology* 16(2):61-63.
- Lavoie G, Gunjal K and Raghavan GSV. 1991. Soil Compaction, Machinery Selection, and Optimum Crop Planning. *Transactions of the ASAE* 34(1):2-8.
- Lebert M, H. Böken and F. Glante. 2007. Soil compaction—indicators for the assessment of harmful changes to the soil in the context of the German Federal Soil Protection Act. *Journal of Environmental Management* 82(3):10.
- Leeson JJDJC. 1983. The variation of soil critical state parameters with water content and its relevance to the compaction of two agricultural soils. *European Journal of Soil Science* 34(1):33-44.
- Legg W and Parris K. 2007. Farm management and the environment. *Journal of Environmental Management* 82(3):299-301.
- Lipiec J and Hakansson I. 2000. Influences of degree of compactness and matric water tension on some important plant growth factors. *Soil and Tillage Research* 53(2):87-94.
- Lipiec J and Hatano R. 2003. Quantification of compaction effects on soil physical properties and crop growth. *Geoderma* 116(1-2):107-136.
- Lynch DH, Voroney RP and Warman PR. 2005. Soil physical properties and organic matter fractions under forages receiving composts, manure or fertilizer. *Compost Science and Utilization* 13(4):252-261.
- Mamedov AI, Huang C and Levy GJ. 2006. Antecedent Moisture Content and Aging Duration Effects on Seal Formation and Erosion in Smectitic Soils. *Soil Science Society of America Journal* 70:832-843.
- Mapfumo E and Chanasyk DS. 1998. Guidelines for safe trafficking and cultivation, and resistance-density-moisture relations of three disturbed soils from Alberta. *Soil and Tillage Research* 46:193-202.
- Marshall SE and Tokunaga A. 2006. Soil Compaction and Strength: Measurement Methods and Influences on Perennial Grass Growth. CAL-PAC Society for Range Management Symposium-Grazing for Biological Conservation.
- Moebius BN, van Es HM, Schindelbeck RR, Idowu OJ, Clune DJ and Thies JE. 2007. Evaluation of laboratory-measured soil properties as indicators of soil physical quality. *Soil Science* 172(11):895-912.
- Nasr HM and Selles F. 1995. Seedling emergence as influenced by aggregate size, bulk density, and penetration resistance of the seedbed. *Soil and Tillage Research* 34:61-76.
- Nhantumbo ABJC and Cambule AH. 2006. Bulk density by Proctor test as a function of texture for agricultural soils in Maputo province of Mozambique. *Soil and Tillage Research* (87):231-239.
- NJDA. SADC Standard Deed of Easement Form. From web site, retrieved 11-9-2008. State Agricultural Development Committee, New Jersey Department of Agriculture (NJDA), Trenton, NJ.
- NJDA. 1997. Prioritization of Project Areas and Individual Applications. State Agricultural Development Committee, New Jersey Department of Agriculture (NJDA), Trenton, NJ.
- NRCS-USDA. 2003. Soil Compaction: Detection, Prevention, and Alleviation. Agronomy Technical Note No. 17. Soil Quality Institute, Auburn, AL.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81

cont'd

- Olu JO, Raghavan GSV, McKyes E, Stewart KA and Fanous MA. 1985. The Effects of Soil Compaction and Organic Matter on the Growth of Bush Beans. Transactions of the ASAE 28(4):1056-1061.
- O'Sullivan MF, Henshall JK and Dickson JW. 1999. A simplified method for estimating soil compaction. Soil and Tillage Research 49(4):325-335.
- O'Sullivan MF and Simota C. 1995. Modelling the environmental impacts of soil compaction: a review. Soil and Tillage Research 35(1-2):69-84.
- Pabin J, Lipiec J, Wlodek S, Biskupski A and Kaus A. 1998. Critical soil bulk density and strength for pea seedling root growth as related to other soil factors. Soil and Tillage Research 46(3-4):203-208.
- Paton TR and Humphreys GS. 2007. A critical evaluation of the zonalistic foundations of soil science in the United States. Part II: The pragmatism of Charles Kellogg. Geoderma 139(3-4):268-276.
- Paustian, K. O., Andren, HH Janzen, R Lal, P Smith, G Tian, H Tiessen, M Van Noordwijk, and PC Wooster. 1997. Agricultural soils as a sink to mitigate CO2 emissions. Soil Use and Management 13:230-244.
- Pitt R, Chen SE, Clark SE, Swenson J and Ong CK. 2008. Compaction's impacts on urban storm-water infiltration. Journal of Irrigation and Drainage Engineering-ASCE 134(5):652-658.
- Potter KN, Torbert HA, Johnson HB and Tischler CR. 1999. Carbon storage after long-term grass establishment on degraded soils. Soil Science 164(10):718-725.
- Rab MA. 2004. Recovery of soil physical properties from compaction and soil profile disturbance caused by logging of native forest in Victorian Central Highlands, Australia. Forest Ecology and Management 191(1-3):329-340.
- Radford BJ, Yule DF, McGarry D and Playford C. 2001. Crop responses to applied soil compaction and to compaction repair treatments. Soil and Tillage Research (61):157-166.
- Radford BJ, Yule DF, McGarry D and Playford C. 2007. Amelioration of soil compaction can take 5 years on a Vertisol under no till in the semi-arid subtropics. Soil and Tillage Research 97(2): 249-255.
- Randrup TB. 1997. Soil Compaction on Construction Sites. Journal of Arboriculture 23(5):207-210.
- Randrup TB and Lichter JM. 2001. Measuring Soil Compaction on Construction Sites: A Review of Surface Nuclear Gauges and Penetrometers. Journal of Arboriculture 27(3):109-117.
- Reinsch TG and Grossman RB. 1995. A method to predict bulk density of tilled Ap horizons. Soil and Tillage Research 34:95-104.
- Reynolds WD, Drury CF, Yang XM, Fox CA, Tan CS and Zhang TQ. 2007. Land management effects on the near-surface physical quality of a clay loam soil. Soil and Tillage Research 96(1-2):316-330.
- Reynolds WD, Drury CF, Yang XM and Tan CS. 2008. Optimal soil physical quality inferred through structural regression and parameter interactions. Geoderma 146:466-474.
- Rodrigues SM, Pereira ME, da Silva EF, Hursthouse AS and Duarte AC. 2008. A review of regulatory decisions for environmental protection: Part I -- Challenges in the implementation of national soil policies. Environment International In Press, Corrected Proof.
- Rousseva S. 2003. Influence of a Compacted Subsurface Layer on Soil Erosion. From conference College on Soil Physics in Trieste, Italy. N. Poushkarov Research Institute for Soil Science and Agroecology.
- Sauerbeck DR. 2001. CO2 emissions and C sequestration by agriculture - perspectives and limitations. Nutrient Cycling in Agroecosystems 60(1-3):253-266.
- Schaffer B, Attinget W and Schulin R. 2007. Compaction of restored soil by heavy agricultural machinery - Soil physical and mechanical aspects. Soil and Tillage Research 93(1):28-43.
- Schäffer BMS, R. Müller, R. Schulin,. 2007. Changes in the macro-pore structure of restored soil caused by compaction beneath heavy agricultural machinery: a morphometric study. European Journal of Soil Science 58(5):1062-1073.
- Schaller FW and Sutton P. 1978. Reclamation of Drastically Disturbed Lands. ASA-CSSA-SSSA, Madison, WI.
- Schjonning P, Thomsen IK, Moberg JP, de Jonge H, Kristensen K and Christensen BT. 1999. Turnover of organic matter in differently textured soils - I. Physical characteristics of structurally disturbed and intact soils. Geoderma 89(3-4):177-198.
- Schröder P, Huber B, Olazábal U, Kämmerer A and Munch JC. 2002. Land use and sustainability: FAM Research Network on Agroecosystems. Geoderma 105(3-4):155-166.

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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CO20-81
cont'd

- Schwartz C, Lefort C, Ouvrard S, and Morel JL. 2009. How much human-made material for a Technosol? Soils of Urban, Industrial, Traffic, Mining and Military Areas 5th International Conference. New York City, Sep. 20-25, 2009.
- Schwartz RC, Evett SR and Unger PW. 2003. Soil hydraulic properties of cropland compared with reestablished and native grassland. Geoderma 116(1-2):47-60.
- Séré G, Schwartz C, Ouvrard S, Sauvage C, Renat J-C and Morel JL. 2008. Soil Construction: a Step for Ecological Reclamation of Derelict Lands. Journal of Soils and Sediments 8(2):130-136.
- Sillon JF, Richard G and Cousin I. 2003. Tillage and traffic effects on soil hydraulic properties and evaporation. Geoderma 116(1-2):29-46.
- Smart P. 1998. Deep soil compaction. Soil Use and Management 14(2):69-69.
- Smith CS, McDonald GT and Thwaites RN. 2000. TIM: Assessing the sustainability of agricultural land management. Journal of Environmental Management 60:267-288.
- Smith DLO. 1987. Measurement, interpretation and modelling of soil compaction. Soil Use and Management 3(3):87-93.
- Smucker AJM and Erickson AE. 1989. Tillage and compactive modifications of gaseous flow and soil aeration. In: Mechanics and related processes in structured agricultural soils. Larson, W. E., editor., p.205-221. Kluwer Academic Publishers, Dordrecht, The Netherlands.
- Soane BD and Van Ouwerkerk C. 1995. Implications of soil compaction in crop production for the quality of the environment. Soil and Tillage Research 35.
- Sojka RE, Busscher WJ and Lehrs GA. 2001. In Situ Strength, Bulk Density, and Water Content Relationships of a Durinodic Xeric Haplocalcid Soil. Soil Science 166(8):520-529.
- Spoor G. 2006. Alleviation of soil compaction: requirements, equipment and techniques. Soil Use and Management 22(2):113-122.
- Stone RJ and Ekwue EI. 1993. Maximum Bulk Density Achieved During Soil Compaction as Affected by the Incorporation of 3 Organic Materials. Transactions of the ASAE 36(6):1713-1719.
- Sullivan P. 2004. Sustainable Soil Management: Soil Systems Guide. ATTRA - National Sustainable Agriculture Information Service.
- Sweigard, R J, Burger, J, Graves, D, Zipper, C, Barton, C, Skousen, J, and Angel, P. 2007. Loosening Compacted Soils in Mined Sites. The Appalachian Regional Reforestation Initiative. Forest Reclamation Advisory No 4.
- Tapela M and Colvin TS. 1998. The soil tilth index: An evaluation and proposed modification. Transactions of the ASAE 41(1):43-48.
- Tekeste M, Habtzghi DH and Stroosnijder L. 2007. Soil strength assessment using threshold probability approach on soils from three agro-ecological zones in Eritrea. Biosystems Engineering 98(4):470-478.
- Thilakasiri HSMG, G. Mullins, P. Stinnette, B. Jory,. 1996. Investigation of Impact Stresses Induced in Laboratory Dynamic Compaction of Soft Soils. International Journal for Numerical and Analytical Methods in Geomechanics 20(10):753-767.
- Tobias S, Haberecht M, Stettler M, Meyer M and Ingensand H. 2008. Assessing the reversibility of soil displacement after wheeling in situ on restored soils. Soil and Tillage Research 98(1):81-93.
- Tobias S and Tietje O. 2007. Modelling experts' judgments on soil compaction to derive decision rules for soil protection--A case study from Switzerland. Soil and Tillage Research 92(1-2):129-143.
- Tzilivakis J, Lewis KA and Williamson AR. 2005. A prototype framework for assessing risks to soil functions. Environmental Impact Assessment Review 25(2):181-195.
- USDA-NRCS. 2007. Soil Quality Concepts. United States Department of Agriculture-Natural Resource Conservation Service.
- Van den Akker JH, Arvidsson J and Horn R. 2003. Introduction to the special issue on experiences with the impact and prevention of subsoil compaction in the European Union. Soil and Tillage Research 73(1-2):1-8.
- van Ouwerkerk C and Soane BD. 1995. ISTRO Workshop on 'The Effects of Soil Compaction on Physical, Chemical and Biological Factors in the Environment', 25 August 1993, Melitopol, Ukraine. Soil and Tillage Research 35(1-2):1-4.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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cont'd

- Vanapalli SK, Fredlund DG and Pufahl DE. 1996. The Relationship between the Soil-Water Characteristic Curve and the Unsaturated Shear Strength of a Compacted Glacial Till. *Geotechnical Testing Journal*, GTJODJ 19(3):259-268.
- Vanapalli SK, Fredlund DG and Pufahl DE. 1999. The influence of Soil Structure and Stress History on the soil-water characteristics of a compacted till. *Géotechnique* 49(2):143-159.
- Vanapalli SK, Fredlund DG and Pufahl DE. 2001. Discussion of "Influence of soil structure and stress history on the soil water characteristics of a compacted till". *Géotechnique* 50(00):4.
- Van-Camp L, Bujarrabal B, Gentile A-R, Jones RJA, Montanarella L, Olazabal C and Selvaradjou S-K. 2004. Reports of the Technical Working Groups Established under the Thematic Strategy for Soil Protection.: Office for Official Publications of the European Communities.
- VandenBygaert AJ and Angers DA. 2006. Towards accurate measurements of soil organic carbon stock change in agroecosystems. *Canadian Journal of Soil Science* 86(3):465-471.
- Voorhees WB, Nelson WW and Randall GW. 1986. Extent and Persistence of Subsoil Compaction Caused by Heavy Axle Loads. *Soil Science Society of America Journal* 50:428-433.
- Ward RMRCB. 1973. Soil Compaction and Recreational Use. *The Professional Geographer* 25(4):369-372.
- West, TO, and WM Post. 2002. Soil organic carbon sequestration rates by tillage and crop rotation: a global data analysis. *Soil Science Society of America Journal* 66:1930-1946.
- West, TO et al. 2004. Carbon Management Response Curves: Estimates of Temporal Soil Carbon Dynamics. *Environmental Management* Vol. 33, No. 4, pp. 507-518. Springer-Verlag New York, NY. DOI: 10.1007/s00267-003-9108-3.
- Whalley WR, Dumitru E and Dexter AR. 1995. Biological effects of soil compaction. *Soil and Tillage Research* 35(1-2):53-68.
- Wright FS, Powell NL and Ross BB. 1984. Underrow Ripping and Irrigation Effects on Corn Yield. *Transactions of the ASAE* 27:973-975.
- Zhou J and Yu J-l. 2005. Influences affecting the soil-water characteristic curve. *Journal of Zhejiang University SCIENCE* 6A(8):797-804.

COMPANIES AND ORGANIZATIONS

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FEDERAL ENERGY REGULATORY COMMISSION EXHIBIT G

NATIONAL ENVIRONMENTAL POLICY ACT REVIEW FOR THE

ROVER PIPELINE PROJECT, PANHANDLE BACKHAUL PROJECT, TRUNKLINE BACKHAUL PROJECT

DOCKET No. CP15-93-000; CP15-94-000; CP15-96-000; PF14-14-000

DEIS COMMENT MEETING COMMENT FORM

Check the box to indicate the meeting you attended:

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Patrick Henry Middle School 7 E 050 Rd Hamler, OH 43524	Fayette High School 400 Gambler Rd Fayette, OH 43521	Chelsea High School 740 N. Freer Rd Chelsea, MI 48118

Comments can be: (1) left at the sign-in table, (2) mailed to the addresses below, or (3) filed electronically by following the instructions provided below.

Please send two copies referenced to Docket No. CP15-93-000; CP15-94-000; and CP15-96-000 to the addresses below.

For Official Filing:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Another copy:

Gas Branch 3, PJ-11.3
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

To expedite receipt and consideration of your comments, the Commission strongly encourages electronic filing of any comments to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Internet web site at www.ferc.gov under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account, which can be created on-line.

COMMENTS: (Please print; use and attach an additional sheet if necessary)

(Crossroads)
Please review the attached pages - one shows the 1957 pipeline installed, effects on yield 56 years later as noted on the combine yield map, and a third page showing the scar on the land still evident today. The impact will be forever not just a few years as Rover Pipeline. Leads you to believe survey crew left 50 cigarette butts on our property.

Commentor's Name and Mailing Address (Please Print)

Darla Huddle
1949 County Road 10
Napoleon, OH 43545

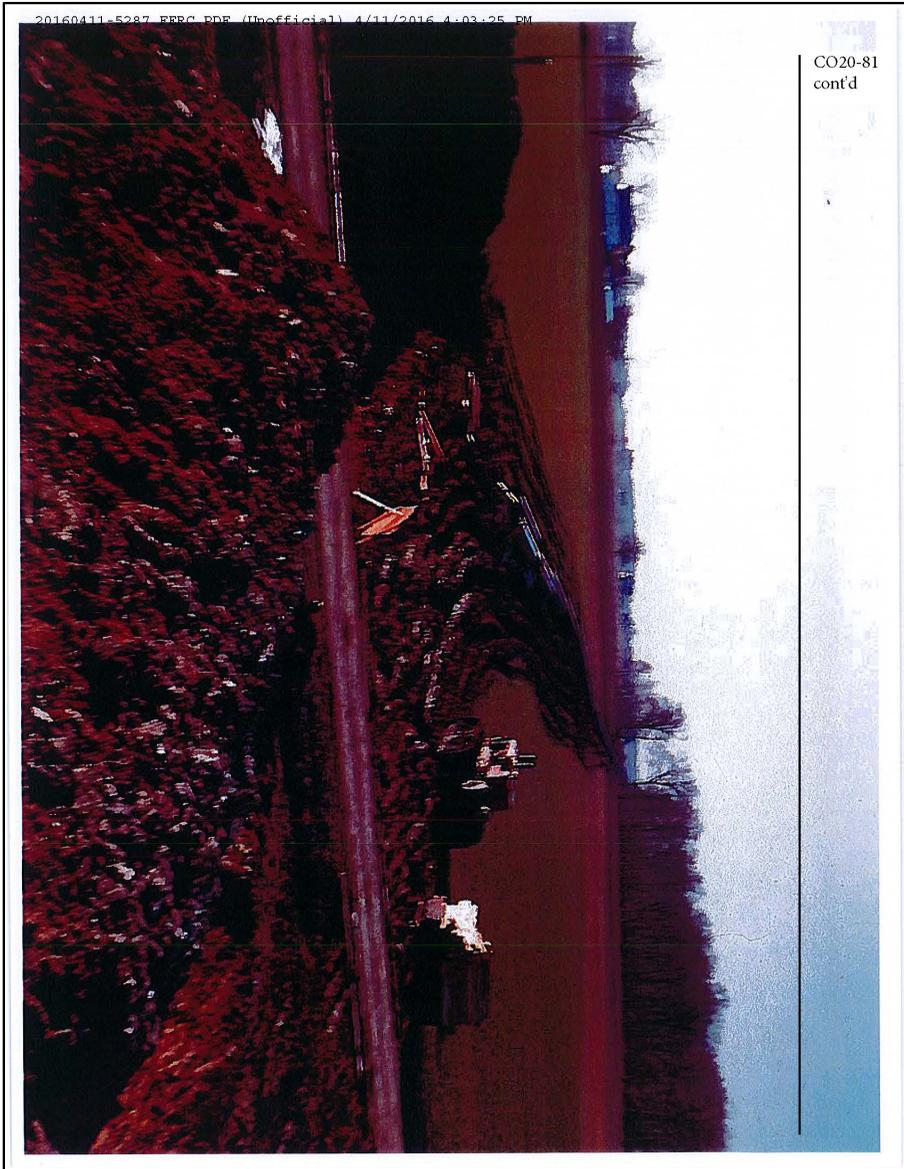
Thank You

Sept. 2014

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)



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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

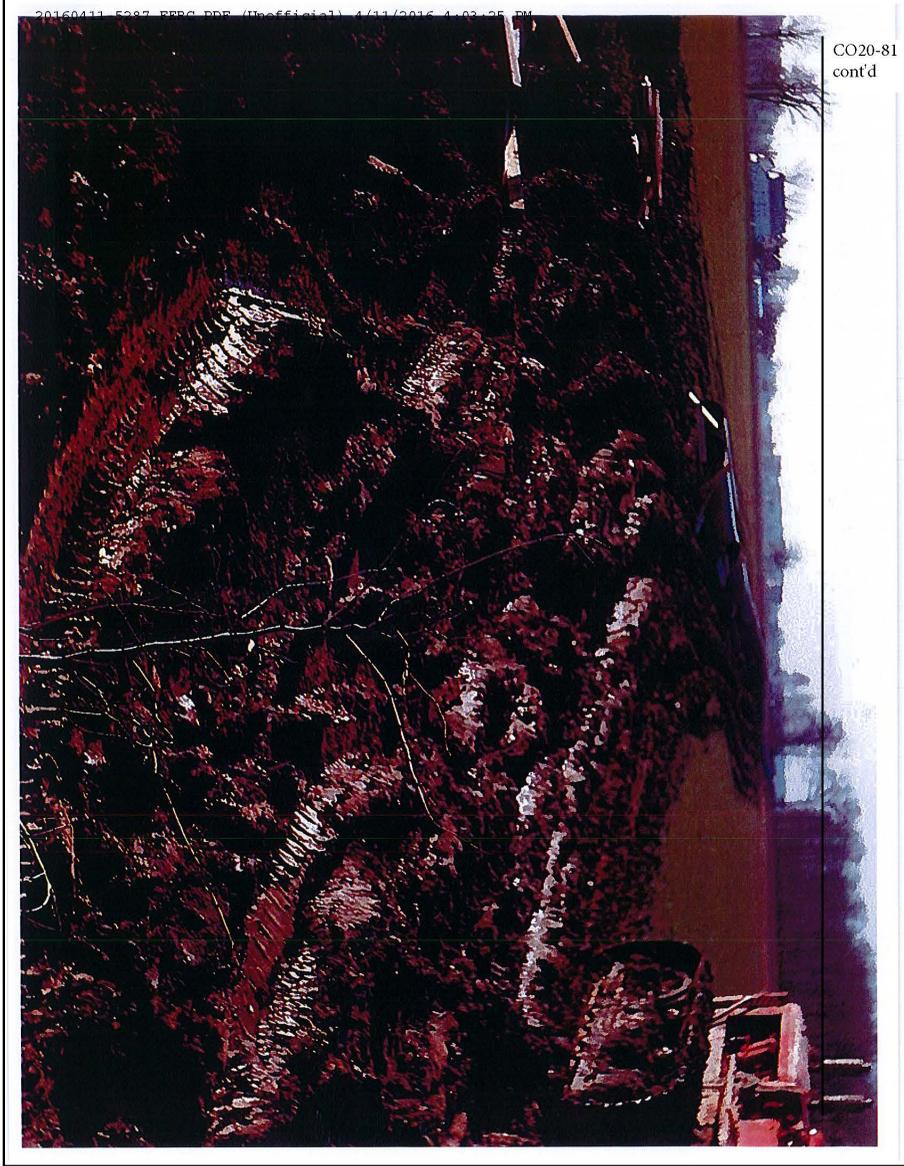
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CO20 – Emens & Wolper Law Firm, LPA (cont'd)



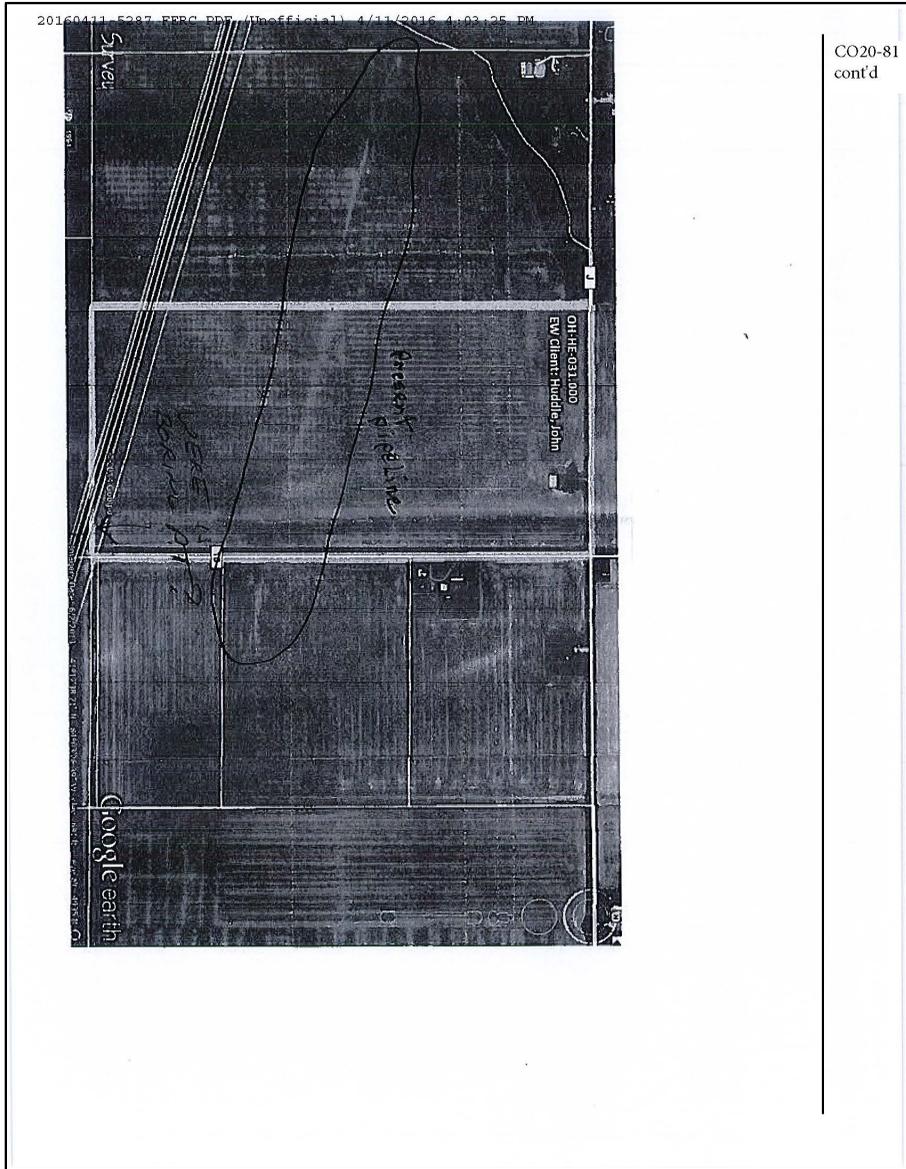
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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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Dry Yield

John Huddle, Jr. - hastedt - a

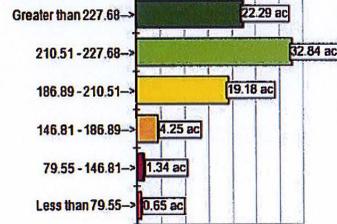


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Field: a

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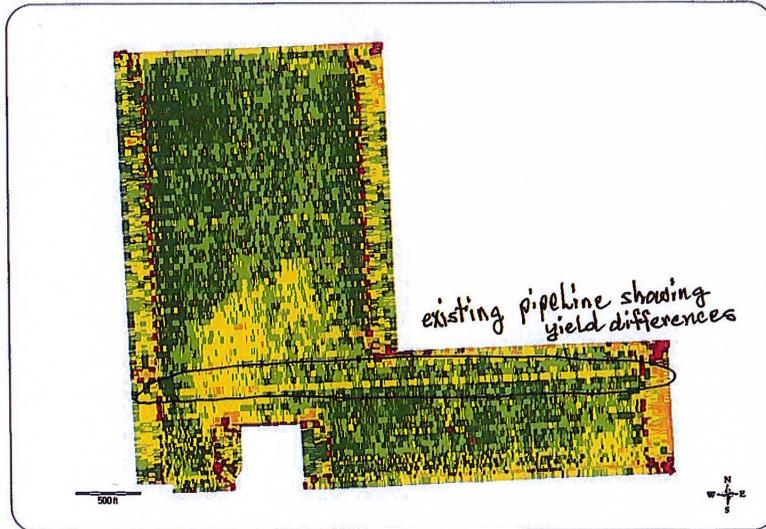
Units = bu/ac



Field Information and legend apply to active map layer only.

Field Information:

Crop: Corn
Start Date: 10/30/2013 *2013*
Product: Corn
Elapsed Time: 5.884 h
Area: 80.56 ac
Average Yield: 215.2 bu/ac
Average Dry Weight: 12,049.2 lb/ac
Total Yield: 17,333.5 bu
Total Dry Weight: 970,633 lb
Average Moisture: 17.99 %
Productivity(area/hour): 13.69 ac/h



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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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Dry Yield

John Huddle, Jr. - hastedt - a

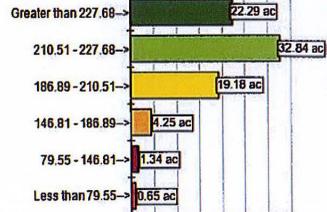


Client Information:

Client: John Huddle, Jr.
Farm: hastedt
Field: a

Legend Information:

Units = bu/ac



Field information and legend apply to active map layer only.

Field Information:

Crop: Corn
Start Date: 10/30/2013 *+ 2015*
Product: Corn
Elapsed Time: 5.884 h
Area: 80.56 ac
Average Yield: 215.2 bu/ac
Average Dry Weight: 12,049.2 lb/ac
Total Yield: 17,333.5 bu
Total Dry Weight: 970,633 lb
Average Moisture: 17.99 %
Productivity(area/hour): 13.69 ac/h



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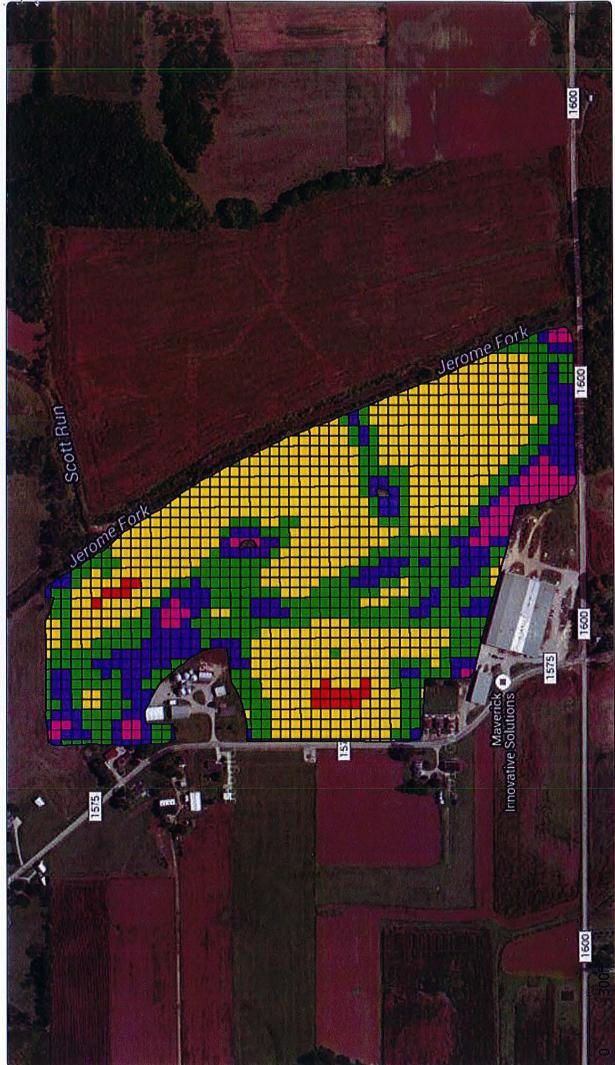
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EXHIBIT H

CO20-81
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Yield (Dry)
(bu/ac)

- 210.0 - 500.0
- 180.0 - 210.0
- 150.0 - 180.0
- 120.0 - 150.0
- 0.0 - 120.0

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Appendix T

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CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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cont'd

679 County Road 1775
Ashland, Ohio 44805

November 13, 2015

Mr. Dick Emens
Emens & Wolper Law Firm
One Easton Oval, Suite 550
Columbus, Ohio 43219

The Bruno farm which is a family farm dating back to 1873, owned by McNaull Real Estate LLC was systematically tiled by a drainage contractor. When tile are installed they are expected to last several generations and disruption in systems causes them to fail prematurely. Trying to repair damaged tile in order to achieve full functionality again is no easy task. The settling of fixed drainage lines over gas lines is very common. Our experience with previous gas companies has been that they do not come back to correct settling problems or incorrectly installed drainage lines as indicated in their easement agreements without the involvement of a lawyer. Gas lines also allow water to move easily in the soil profile along the gas lines and the disturbed ground which can cause the development of unnecessary wet spots that did not exist previously. While the Rover Senior Right of Way Representative Mr. Damon McCarthy claims Rover is not like other gas companies, he also admits that he has no previous experience working in an area with tile like that found in Ohio. Energy Transfer, a company based out of Texas and with representatives like Mr. McCarthy, seems to lack comprehension of the amount of damages that can be caused to highly productive farmland.

Crop losses are difficult to determine but could occur for periods as short as 5 years or be indefinite as seen with another gas line that was installed 23 years ago on one of our other farms. We have attached yield map to illustrate this yield loss. There are also additional costs incurred while working around Rover while line installation is being completed ranging from fertilizer application to grain harvesting. The total impact of the Rover Pipeline construction on our properties is far greater than what the proposed easements have encompassed. There are unforeseen problems that are hard to write into an easement agreement ahead of time. The existence of unknown future costs makes it imperative that compensation sufficiently accounts for expenses occurred over time as a direct result of the Rover project on our most valuable resource, the land that we manage. This is not our first time dealing with the installation of gas lines and we have never felt that we have been fairly compensated primarily due to existing easement language. With the installation of these new lines we expect fair compensation and a well written easement agreement that will hold Rover responsible for costs incurred as a direct result of their project both immediately and in the future.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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EXHIBIT I

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Rover Pipeline LLC

Docket Nos. CP15-93-000

**MOTION TO STAY FERC ISSUANCE OF DRAFT ENVIRONMENTAL IMPACT
STATEMENT UNTIL ROVER PRESENTS FULL AND ACCURATE INFORMATION
OF ENVIRONMENTAL IMPACT ROVER PROJECT WILL CAUSE**

Emens & Wolper Law Firm Co., LPA (E&W), on behalf of more than 200 clients who own 220 properties subject to 99 miles of the proposed Rover Pipeline LLC (Rover), hereby files this motion (Motion) with the Federal Energy Regulatory Commission (FERC) requesting FERC stay issuance of any draft environmental impact statement relating to the captioned project until Rover provides full and accurate information of the environmental impact this project will have on Ohio landowners and their communities. At this time it appears: (1) Rover is not representing to FERC the true environmental impact this project will have on Ohio landowners and their communities, (2) Rover is unprepared to manage, mitigate and repair the extensive interconnected landowner and community drainage systems throughout Ohio, (3) Rover and its parent company, Energy Transfer Partners, have not budgeted enough money for this project to fund the likely adverse environmental impacts, (4) Rover is not taking adequate precautions to minimize the adverse impacts of the two forty-two inch (42") pipelines, and (5) Rover is not presenting landowners with agreements (easement forms, drainage tile agreements, etc.) that will adequately protect Ohio land, Ohio landowners or their communities from the impact or potential liability of this project.

A confidential and privileged list of E&W landowner clients is attached hereto. This list of clients has been distributed to Rover representatives, and is continuously being updated. E&W filed a motion to intervene as a representative of its then current and future clients dated March 25, 2015. E&W's motion to intervene was unopposed by Rover.

Below we set forth necessary critical information about the environmental impact this project will have on Ohio land, Ohio landowners and their communities which we believe has not been adequately communicated to FERC by Rover.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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COMPANIES AND ORGANIZATIONS

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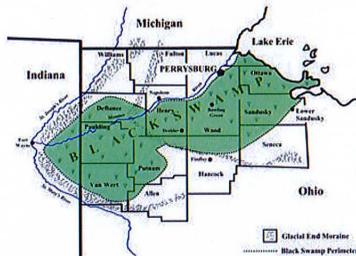
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I. ROVER IS NOT SUFFICIENTLY FOCUSING ON, NOR PROVIDING TO FERC SUFFICIENT INFORMATION ON MANAGEMENT OF ESSENTIAL DRAINAGE SYSTEMS IN OHIO AND THE DAMAGE THAT WILL OCCUR TO OHIO LAND, OHIO LANDOWNERS AND THEIR COMMUNITIES

A. History of the Black Swamp: An Example of Drainage Necessity

The importance of drainage tiles, waterways, ditches and other drainage systems on and near Rover's planned Ohio route cannot be overstated. Much of the land Rover is proposing to traverse in Ohio contains elaborate systems to manage water. While Rover pays minor lip service to the landowners' drainage systems, Rover is unprepared to properly deal with the drainage systems it will encounter in north central and northwest Ohio. Below is an article that illustrates the importance of drainage systems to landowners and the communities along the Rover Ohio route. This article is from Historic Perrysburg, Inc., an organization that has a mission to provide awareness of the history of the northwest area. For more information, please see their website at <http://www.historicperrysburg.org/blackswamp.htm>

"It is hard to believe that there once lay a terrible swamp beginning in the vicinity of South Boundary Street and running as far south as Findlay, Ohio, and east and west from the city of Sandusky nearly to Fort Wayne, Indiana...40 miles wide and 120 miles long. It was the Great Black Swamp, an oozing mass of water, mud, snakes, wolves, wildcats, biting flies, and clouds of gnats and mosquitoes. It was nearly big enough to cover the entire state of Connecticut.



Water, often up to the belly of a horse, stood on the surface until it evaporated in the hot summer months. When it rained, or thawed in the winter, it was water and muck. Much of the swamp was covered with an almost impenetrable forest of giant oak, sycamore, hickory, walnut, ash, elm, maple and cottonwood trees, except in a few prairie areas where limestone just under the surface would not support timber growth.

Not even native Indians went into the swamp except to hunt, and unless you could follow a blazed trail, it was easy to become hopelessly lost since you could only see but a few yards ahead.

The swamp was created 20,000 years ago when the last glacier retreated. The enormous weight of the mile-thick ice pack pressed down and scooped out the earth beneath it to create a depression about 10 feet lower south of where Perrysburg sits on the river bluff. Thereafter, until it was drained, water stood in the silted wetland and clay in the ground prevented it from soaking in. When water was standing and flooding conditions occurred, large fish from the Maumee River and other streams could swim all over areas now covered by corn and soybean fields. One man in Perrysburg told of ice skating all the way to what is now Weston, Ohio, nearly 17 miles southwest of Perrysburg.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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cont'd

There was no end to the variety of sicknesses and maladies spawned from the mosquito-infested swamp. There was cholera, typhoid and milk sickness, but chief among them were malarial fevers generally known as "ague" for which people kept quinine powder on the table, along with salt and pepper, to sprinkle on their food.

The fevers caused people to have chills, or the shakes, and according to a doctor of the time it took them from three to five years to get over it. The shakes occurred from about the first of July until the first frost. They took hold of people and literally shook them up. The doctor wrote that so violent were the chills and shaking that when they came on, the very bed and floor would rattle.

The Black Swamp was Ohio's last frontier, and beginning in the 1840s, it took several generations of determined farmers to drain it and make it the rich, flat farmland of today. What started it all was pretty much the idea of the medical profession which believed that it was bad swamp air that caused the fevers.

They were ignorant of the fact that it was blood-sucking mosquitoes that transmitted the disease, but at least they were on the right track. Along with this, when canals and railroads came through here they created markets for the vast timber resources, most of it in the swamp. And still another good reason for beginning the tremendous job of draining the swamp was the realization that it could be done. People learned from trying to build roads that they could dig ditches and the water would flow toward the nearest stream or river.

Until then, early farmers tilled just the highest ground, with some effort to build shallow, open ditches around a plot or field, or one leading to the nearest creek if available. As more settlers came, farmers would sometime cooperate in extending their adjoining ditches.

Finally, in 1850, the Ohio legislature passed the first law regarding government support for drainage systems resulting in people throughout northwest Ohio cooperating in wide-area drainage, with ditches deep enough to drain the swamp water into Lake Erie via the Maumee and Portage Rivers.

Individual farmers continued to dry out their fields by plowing trenches across them, using wooden troughs laid underground, and eventually with clay tiles and pipe introduced by European farmers.

It took back-breaking labor and construction of one of the greatest underground drainage systems in the history of the world to create the productive farmland we now drive by and take for granted just outside of Perrysburg."

As this article describes, but for the drainage systems that have been implemented by the State of Ohio and individual landowners, much of the Ohio land Rover proposes to traverse would still be a swamp. This is true outside of the "Black Swamp" area as well. Drainage systems in Ohio are essential to maintaining the land's productivity.

B. Thousands of Additional Acres Will Likely Be Impacted By Rover

In its Resource Report 1 dated February of 2015, Rover indicated that it estimated the following construction and operation land requirements for its proposed project:

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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TABLE 1.4-1 Summary of Estimated Construction and Operation Land Requirements			
Facility	State	Construction ¹ (acres)	Operation ² (acres)
Supply Laterals:			
Pipelines	WV, PA, OH	3,506.87	1,341.22
Aboveground Facilities:	WV, PA, OH	172.61	94.92
Access Roads	WV, PA, OH	122.04	18.25
Contractor Yards	WV, PA, OH	313.61	0.00
	<i>Supply Laterals Subtotal</i>	<i>4,115.04</i>	<i>1,454.39</i>
Mainlines:			
Mainlines A and B	OH	3,329.97	1,371.09
Aboveground Facilities:	OH	98.58	47.60
Access Roads	OH	3.94	2.14
Contractor Yards	OH	218.12	0.00
	<i>Mainlines Subtotal</i>	<i>3,650.61</i>	<i>1,420.83</i>
Market Segment	OH, MI	1,711.99	608.32
Aboveground Facilities:	OH, MI	33.04	28.21
Access Roads	OH, MI	5.24	1.80
Contractor Yards	OH, MI	59.03	0.00
	<i>Market Segment Subtotal</i>	<i>1,809.30</i>	<i>634.33</i>
	PROJECT TOTAL	9,574.95	3,509.55

It appears Rover is only considering in its land requirements and impact figures the actual land that is within its proposed right-of-way and easement width. Rover appears to be completely ignoring that other land will likely be impacted if Rover does not adequately deal with drainage issues and complete reclamation properly.

Further, Rover appears to ignore the land that will be “stranded” during construction. Rover’s proposed pipeline route will traverse property in numerous areas that will cause another part of the property (not part of the easement) to be unusable.

Rover also appears to be ignoring land that will be directly impacted by its project if Rover does not properly relocate the route in numerous places and adequately repair drainage systems. The vast majority of the land impacted by the Mainline and Market Segment areas of this project, approximately 310 miles of Rover pipelines, contain elaborate drainage systems designed specifically for specific parcels of property.

As described in the article above, these drainage systems are designed like a spider web: drainage tiles and surface drains funnel water to a certain main tile or area on or off the property, and then the water is moved to a ditch, creek, or the like. If any area of this system is damaged or impacted, it causes issues not only at the site where the system is impacted but also anywhere else within the system as it is all connected.

Every parcel affected by the proposed pipeline with a drainage system must be individually reviewed and analyzed to determine the likely impact. Rover claims that it is developing plans for each parcel where it will try to mitigate the impact of the pipeline. However, out of the 174 parcels of land with drainage systems which our law firm represents, Rover has not “approved” one plan to mitigate and repair the drainage system.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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EXHIBIT J

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cont'd


ROVER PIPELINE LLC
An ENERGY TRANSFER Company

Rover Pipeline Company LLC

Dear-Sir or Madam:

As you know, Rover Pipeline Company LLC ("Rover") is proposing to build a new interstate natural gas pipeline to connect the Marcellus and Utica Shale production areas to "liquid" markets for consumption in the Midwest, Great Lakes and Gulf Coast regions or for limited export to Canadian Markets. Rover is making a concerted effort to build the least intrusive, safe and most efficient pipeline.

Because we recognize the importance of minimizing and mitigating impacts to the agricultural properties that may be traversed by the pipeline in Ohio and Michigan, Rover has enlisted the services of Land Stewards LLC, a consulting group of agricultural engineers, drainage contractors, agronomists, and conservation planners, who will lend their expertise to the land negotiation processes between landowners and Rover to develop plans to mitigate and restore any impacts to agriculture lands. The enclosed Professional Services Concept Paper from Land Stewards LLC will provide detailed information on their services and expertise.

Rover requests that landowners with agricultural properties agree to schedule a meeting with Rover representatives and Land Stewards LLC consultants to develop a specific construction plan for their property. Please complete and return the enclosed questionnaire to assist us in identifying any drain tile systems and management programs or any surface drainage systems, or to provide any information or data in regards to top soil that can be utilized to determine top soil separation plans. Rover's goal is to utilize the data from the questionnaires to generate specific construction plans to minimize any impact to agricultural fields, as well as to finalize an agricultural mitigation plan.

Of course, Rover encourages any comments from landowners to improve the process as we make a concerted effort to ensure that we protect and lessen the impact on all properties along the proposed pathway of the pipeline.

As a reminder, until the route is finalized and approved by the Federal Energy Regulatory Commission (FERC) and other state and Federal authorities, the route is subject to change. For more detailed information about the Rover Pipeline Project, please visit our webpage at: www.energytransfer.com/ops_etrover.aspx. This web page is updated with project details as they become available.

If you have additional questions about the Rover Pipeline Project, please call us toll free at: 1-888-844-3718 or write to us at:

Rover Pipeline Project
Attention: Erica Richardson
1300 Main Street HOU 14.048
Houston, TX 77002

Sincerely,



Joey Mahmoud
Vice President - Engineering

Encl: Land Steward LLC Letter and Questions Regarding Your Land

1300 Main Street Houston, Texas 77002 (713) 889-7000

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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ROVER PIPELINE LLC
An ENERGY TRANSFER Company

67501 Mall Ring Road
Unit 923
St. Clairsville, OH 43980
(740) 698-5579

Tract No.:
APN: 52-00542.000
Line Name: CCAD1

Questions Regarding Your Land

1. Do you have existing field tile within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
2. Do you have existing fence within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
3. Do you have existing conservation easements (e.g. CRP, WRP, FRPP) within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
4. Do you have existing sod waterways, spring developments or surface drains within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
5. Do you have specific landscaping (e.g. lawn, flowers, fruit, etc.) or land features within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
6. Do you have existing driveways, lanes, access roads within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
7. Do you have existing buried lines (e.g. electric, water, septic system, irrigation, etc.) within the proposed pipeline easement right of way? YES or NO
If YES, please describe.
8. Please describe any other site specific information about your property that you think we should be aware of?

Thank you,

Craig Wurtzbacher
Supply Project Manager
Representing Rover Pipeline LLC

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Appendix T

COMPANIES AND ORGANIZATIONS

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cont'd



Ensuring productive land in harmony with a quality environment.

Mark Wilson
President

October 16, 2014

Mr. Leon Banta
Project Director ET Rover Pipeline
7100 Whipple Avenue NW, Suite B
North Canton, Ohio 44720

Dear Mr. Banta:

It was a pleasure to meet with you last week to discuss the role Land Stewards will have on the Rover Pipeline Project (Rover Pipeline). As requested, the following outlines who we are and what we are prepared to do for the Rover Pipeline.

Formed in 2003 as an Ohio Limited Liability Company (LLC), Land Stewards is a multi-disciplinary consulting group that specializes in caring for agricultural land in a manner that ensures productivity as well as harmony with the environment and potentially conflicting land uses. Our home office is in Marion, Ohio.

With regard to the Rover Pipeline, Land Stewards will coordinate a comprehensive and continuous approach toward mitigating the impacts to adjacent land. Specifically, Land Stewards will protect and restore agricultural drainage and productivity to as-good-as or better-than before status. We will also function in an ombudsman-like capacity for landowners before, during and after construction of the Rover Pipeline. This forward leaning approach will be carried out by an Ohio and Michigan-based consortium of qualified and experienced agricultural engineers, drainage contractors, soil and water conservation excavators, conservation planners, crop consultants, soil scientists, GIS analysts, agricultural advisors and project managers.

It is important to note that in order to avoid a conflict of interest and preserve the integrity of the independent third-party inspection and oversight process, Land Stewards will closely abide by the framework of any stipulated agreement (e.g. Agricultural Impact Mitigation Agreement – ALMA) between federal, state or local jurisdictions and the Rover Pipeline.

Agriculture's rich history in Ohio and Michigan was made possible, in large part, because of drainage. Prior to settlement, north central and northwestern Ohio and large parts of Michigan were essentially swamp. Widespread efforts, spanning several generations, were undertaken to "tame" these swamps by draining away water that stood there most of the year. An intensive system of ditches and clay field tile were installed and eventually the land was drained and converted to highly productive farmland. Today, plastic tile are used and tile lines are laid out in systematic patterns to maximize drainage potential. Small (4" and less) perforated lateral tile are installed at the top of the slope 3 to 6 feet below the soil surface and 30 to 40 feet apart. Lateral tile feed into larger (6" and greater) main tile that eventually outlet water to a ditch or stream. It is important to

1122 Somerset-Hoffman Rd. East • Marion, Ohio 43302 • (740) 751-4703 • Fax (740) 751-4704
www.landstewards.com

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understand that the excessive water has not been eliminated, but rather it has been diverted into surface and subsurface drainage systems and eventually into waterways. When these drainage systems malfunction or are destroyed, the farmland quickly reverts to its wet, mostly unproductive natural state. Consequently, it's hard to overstate the importance of drainage to farmers in north central and northwestern Ohio and large parts of Michigan.

As you are aware, the Rover Pipeline will pass through these intensively drained and highly productive areas of Ohio and Michigan. Because the pipeline will be installed in the same strata as field tile, the excavation of the pipeline trench will dissect, cut and in some cases destroy tile lines within the right-of-way. Pre-emptive planning and repair of the interrupted field tile is essential for restoring proper drainage and productivity to the land within the right-of-way and the surrounding watershed.

Land Stewards intends to follow the Rover Pipeline organizational model of dividing the entire length of the project into a minimum of six (6) "spreads". In practical terms, this means team members will work in specific "spreads". For example, Land Stewards will have at least one Lead Contractor and one Agricultural Advisor assigned to each "spread". The Lead Contractor will coordinate the structural practices and the Agricultural Advisor will coordinate the vegetative and managerial practices within the "spread". Both the Lead Contractor and the Agricultural Advisor will maintain constant communication with Rover Pipeline representatives, landowners, and local, state and federal authorities. Supporting the Lead Contractors and Agricultural Advisors across the entire Rover Pipeline will be experts in agricultural engineering, conservation planning, crop science, soil science, GIS, education and outreach.

For the sake of project uniformity, Land Stewards will establish and adopt quality standards and specifications for materials and construction methods used to protect and restore the structural, vegetative and managerial practices. For example, a standard drainage coefficient, tile type and connection, and tile installation method will be used throughout the entire Rover Pipeline. These standards and specifications will be based on proven best available technology.

Land Stewards will work with landowners and Rover Pipeline representatives to identify and assess the as-is condition of each tract of land within the right-of-way. Examples of information to be collected include: land use (e.g. non-cropland, pastureland, cropland, woodland), unique or sensitive agricultural land/soils (e.g. highly erodible land, seasonal high water tables, prime farmland), and structural, vegetative and managerial features (e.g. surface and subsurface drainage, spring developments, government conservation practices, wind breaks, pasture mixes and fencing). This information will be used to develop a site-specific Protection and Restoration Plan (PRP) for each tract. The PRP will serve as a road map for land stewardship before, during and after construction of the Rover Pipeline. The PRP will be made available to the landowner, Rover Pipeline representatives, and local, state, and federal government agencies. Based on our experience, the key to successful land protection and restoration is early identification of concerns, thorough planning and follow through, and good communication.

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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As soon as regulatory permission is granted – ideally as early as March 1, 2015 – Land Stewards will start the pre-pipeline construction phase of the PRP. All work will be done outside of the right-of-way. During this phase, Land Stewards will pro-actively redesign existing surface and subsurface drainage systems to minimize the number of pipeline crossings. Examples include: installing submain tile header systems parallel to the pipeline, optimizing tile crossing angles, rerouting field tile to a different outlet, and realigning surface drainage features. In addition, Land Stewards will strongly encourage the Rover Pipeline to compensate landowners for not planting crops and adopting an aggressive weed control program in the right-of-way for crop years 2015 and 2016.

Once actual construction of the Rover Pipeline begins, Land Stewards will start the active-pipeline construction phase of the PRP. This work will take place within the right-of-way and will involve repair, replacement or addition of drain tile, reconstruction of damaged or destroyed soil and water conservation practices and installation of drain tile support and/or crossing systems over the pipeline.

Following activation of the Rover Pipeline, Land Stewards will start the post-pipeline construction phase of the PRP. This work will involve monitoring the status of structural, vegetative and managerial practices installed or implemented by Land Stewards for a period of 2 crop years (24 months). If during this 2 year period, these practices show signs of failure or do not produce as-good-as or better-than before agricultural productivity, Land Stewards will work with the contractor to repair, replace or reestablish them. Examples of possible failures include: drainage system failures, excessive soil subsidence, and gully erosion.

As Land Stewards and Rover Pipeline representatives finalize the terms and conditions of our contract, two principles rise to the top of our priority list:

1. Land Stewards shall have a reasonable opportunity to accomplish its objective.
2. Land Stewards shall have the latitude to use best available technology.

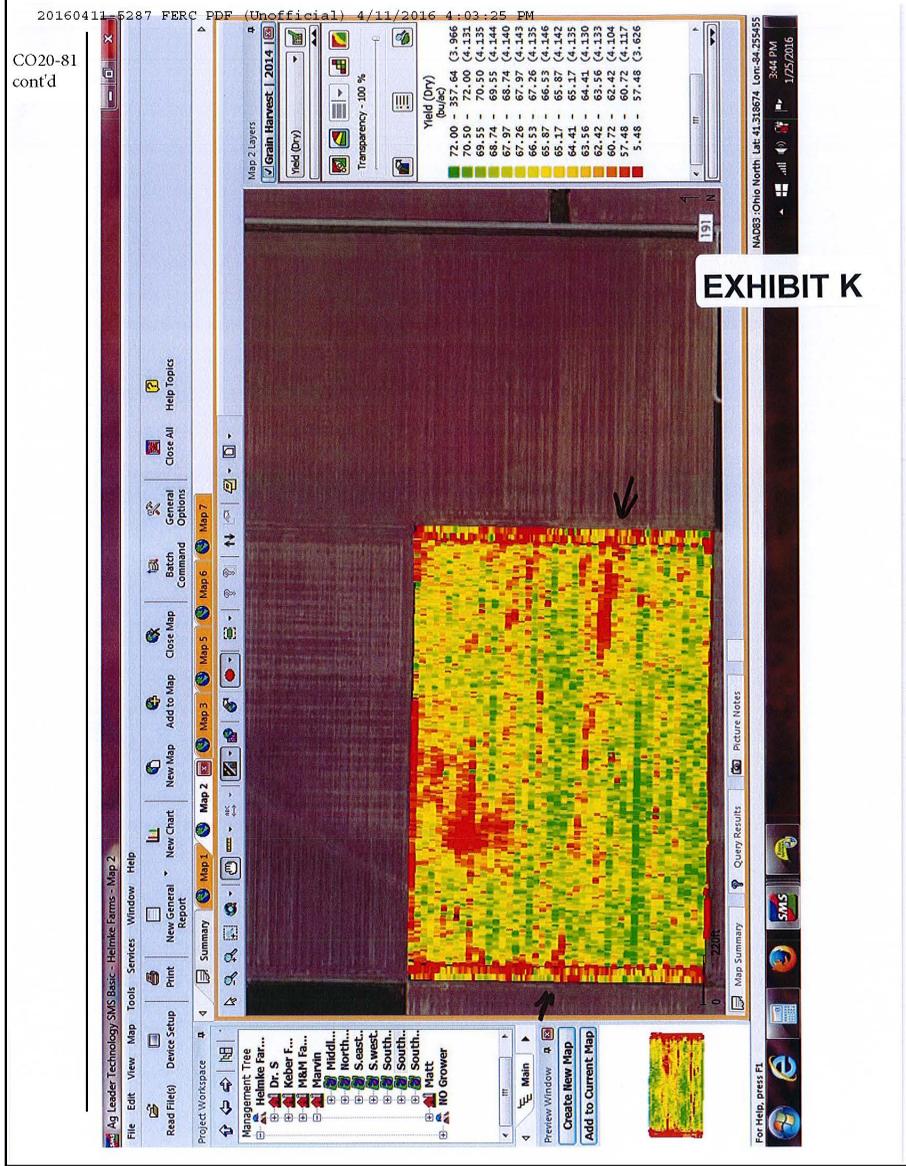
While our objective for the Rover Pipeline is clear: *to protect and restore the productivity of farmland impacted by the construction of the Rover Pipeline*, the resources needed to accomplish it are huge. Nonetheless, agricultural productivity and drainage are our areas of expertise. And because Ohio and Michigan are our homes and many of the farmers that will be impacted by the Rover Pipeline are our customers and neighbors, we take seriously the objective before us and are ready to partner with Rover Pipeline.

Sincerely,


Mark L. Wilson
President

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)



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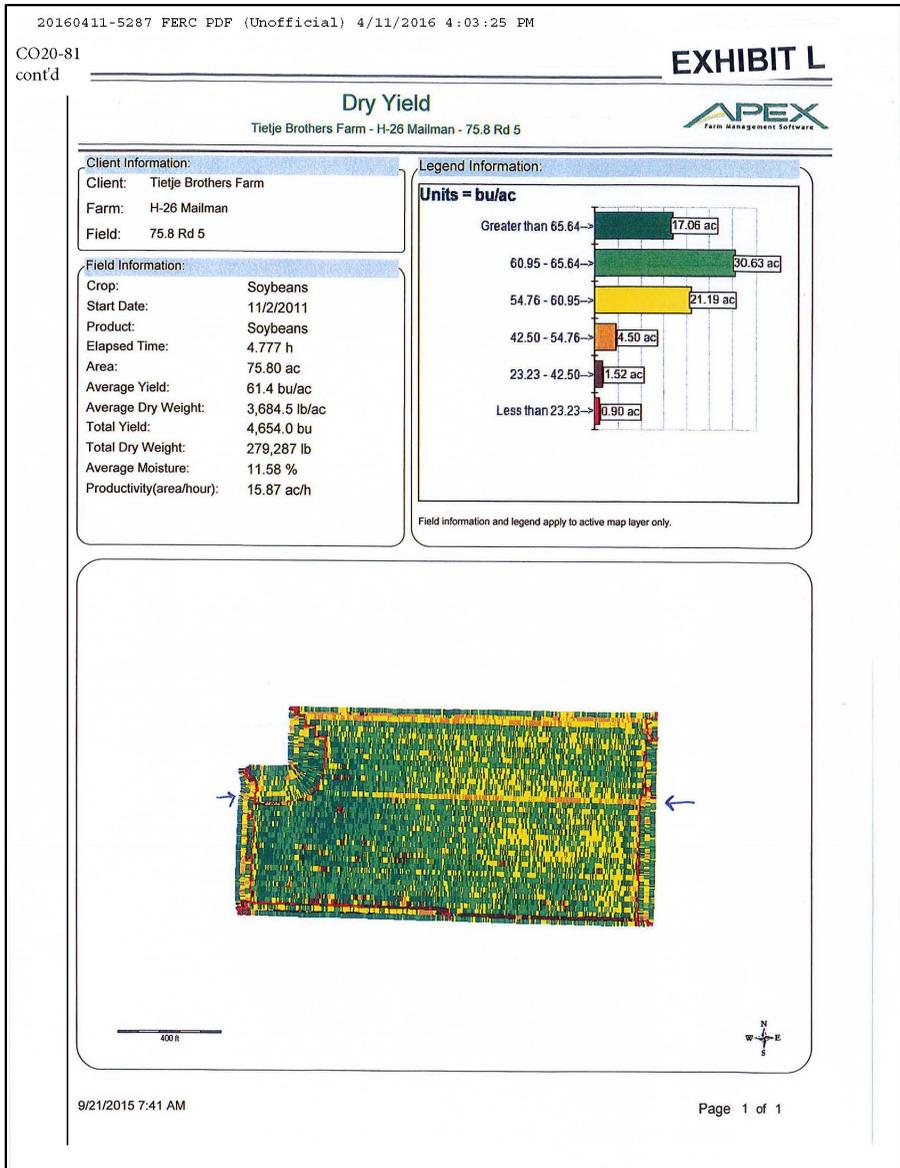
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COMPANIES AND ORGANIZATIONS

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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EXHIBIT M

1 BEFORE THE
2 FEDERAL ENERGY REGULATORY COMMISSION

3 ----- X

4 IN THE MATTER OF: : Project No.

5 ROVER PIPELINE PROJECT : CP15-93-000

6 :

7 ----- X

8
9 Patrick Henry Middle School

10 7E-50 Road

11 Hamier, Ohio 43524

12

13

14 Monday, March 21, 2016

15 The above-entitled matter came on for Scoping

16 Meeting, pursuant to notice, at 6:00 p.m., Kevin Bowman, the

17 moderator.

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COMPANIES AND ORGANIZATIONS

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1 PROCEEDINGS

2 (6:02 p.m.)

3 MR. BOWMAN: Good evening everyone. On behalf of
4 the Federal Energy Regulatory Commission I would like to
5 welcome all of you here tonight. I want to welcome all of
6 you to the public comment meeting on the draft Environmental
7 Impact Statement or DEIS for the Rover Pipeline and
8 Trunkline and Panhandle Backhaul Projects. Let the record
9 show that the DEIS comment meeting began at 6:02 p.m. on
10 March 21, 2016 in Hamler, OH.

11 My name is Kevin Bowman and I am an Environmental
12 Project Manager in the Office of Energy Project, a division
13 of the FERC. To my right is Kim Sechrist, who is also a
14 representative of the FERC tonight. Also with me tonight is
15 Christine Allen, Oliver Pahl and Jon Hess who is also
16 representing FERC today. You'll note we do have a court
17 reporter set up here tonight so we will have an accurate
18 record of this meeting. If you would like to get a copy of

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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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19 that transcript you can make arrangements with the court

20 reporter following this meeting.

21 In February of 2015, Rover Pipeline LLC,

22 Trunkline Gas Company LLC, and Panhandle Eastern Pipeline

23 Company filed applications under Sections 7 of the Natural

24 Gas Act to construct and operate certain natural gas

25 pipeline facilities. Rover's Project would consist of the

3

1 installation of about 500 miles of variable-diameter and

2 some dual-natural gas pipeline in West Virginia,

3 Pennsylvania, Michigan and Ohio as well as ten new

4 compressor stations. Panhandle and Trunkline's Projects

5 would involve modifications to their existing facilities to

6 allow Rover to deliver gas into existing pipeline systems.

7 The primary purpose of tonight's meeting is to

8 give you all an opportunity to provide specific

9 environmental comments on the draft EIS prepared by FERC

10 staff on these Projects. It will help us the most if your

11 comments are as specific as possible regarding the proposed

12 projects in FERC Staff's Draft Environmental Impact

13 Statement.

14 So I would like to clarify that this project is

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15 not being proposed by FERC, it is proposed by Rover and its
16 affiliates. Rather, FERC is the lead federal agency that is
17 responsible for validating applications to construct and
18 operate interstate natural gas pipeline facilities. The
19 FERC therefore, is not an advocate for the Project.
20 Instead, as we have mentioned before throughout this
21 process, particularly the FERC staff that are here tonight,
22 for us, we are advocates for the environmental review
23 process.

24 Now during our review of these projects, we have
25 assembled information from a variety of sources. Some of

4

1 these sources have included applicants, the public, other
2 state, local and federal agencies and our own independent
3 analysis and field work. So we analyzed this information
4 and prepared a draft Environmental Impact Statement and was
5 distributed to the public for comment. A Notice of
6 Availability of the Draft EIS was issued for this project on
7 February 19th of this year.

8 In our preparation of this Environmental Impact
9 Statement, several other Federal and State agencies assisted

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10 us with our preparation of the EIS. These are what we would
11 call "cooperating agencies". I would like to thank them for
12 their continued assistance in our review of this Project. I
13 would like to thank the Army Corps of Engineers,
14 Environmental Protection Agency, U.S. Fish and Wildlife
15 Service, Ohio Environmental protection Agency and the West
16 Virginia Department of Environmental protection who also
17 assisted us in the preparation of this document.

18 So we are nearing the end of the 45-day comment
19 period of the Draft Environmental Impact Statement. This
20 comment period will end on April 11th of this year. All
21 comments that we receive, whether they be written or spoken
22 will be addressed in the Final Environmental Impact
23 Statement. I encourage you, if you plan to send comments
24 and have not, please do so today be it verbally during the
25 comment portion of our meeting or using one of the forms in

5

1 the back of the room.

2 You can also submit comments using the procedures
3 outlined in the FERC's Notice of Availability of the Draft
4 EIS which includes instructions on how to submit your

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COMPANIES AND ORGANIZATIONS

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5 comments electronically. All comments will be considered
6 with equal weight regardless of whether they are provided
7 here tonight or submitted in writing. Also, if you have
8 received a copy of the Draft EIS, whether it be a paper copy
9 or a CD, you will automatically receive a copy of a final
10 environmental impact statement in the mail.

11 If you did not get a copy of the draft EIS in the
12 mail and you would like a copy of the final, please do give
13 use your name and address at the sign in table and we will
14 make sure that you do get a copy of the final EIS. Do be
15 advised that the final EIS and the draft EIS are not
16 decision-making documents. So that is, they do not
17 determine whether or not the Project is approved. I want to
18 differentiate the roles that distinct staff members have for
19 FERC.

20 Myself and the other FERC staff here tonight are
21 part of the Environmental Review Staff. So we do not
22 determine whether or not the Project moves forward.
23 Instead, the FERC Commissioners and there are five, who are
24 presidentially appointed, are responsible for determining
25 whether the Project moves forward. In making their

COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

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1 decisions, the Commissioners consider a host of
2 environmental information and non-environmental information
3 such as engineering, markets and rates in their decisions.
4 Only after taking the environmental and
5 non-environmental information into consideration will the
6 Commission make its final decision whether or not to move
7 approve the project. If the Commission does approve a
8 project, and a Certificate of Public Convenience and
9 Necessity is issued, Rover, Panhandle and Trunkline will be
10 required to meet certain conditions outlined in that
11 certificate.
12 FERC environmental staff would monitor an
13 approved project through construction and restoration and
14 perform daily on-site inspections to document environmental
15 compliance with applicable laws and regulations, the
16 applicant's proposed plans and mitigation measures and any
17 other additional conditions in the FERC Certificate.
18 So I'll end with the boring stuff about FERC. We
19 will get to the part where we talk and hear comments from
20 those of you tonight. If you'd rather not speak tonight, or
21 don't get to say everything you wanted or think of something

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22 later, you can still hand in written comments tonight using
23 the forms we have at the back table or you can always just
24 send them into the Commission using the information detailed
25 in the Notice of Availability.

7

1 So as I mentioned, this meeting is being recorded
2 by a court reporter so all of your comments will be
3 accurately transcribed and put into the public record. I
4 will call you, so far eight speakers that I have signed up
5 in the order that you signed in and I ask that you state
6 your name so they can be accurately transcribed and I will
7 get to that in just a second. As the speakers are speaking,
8 the only rule that I have is that you do respect the speaker
9 as they are at the microphone, regardless of whether you
10 agree or disagree with their comments.

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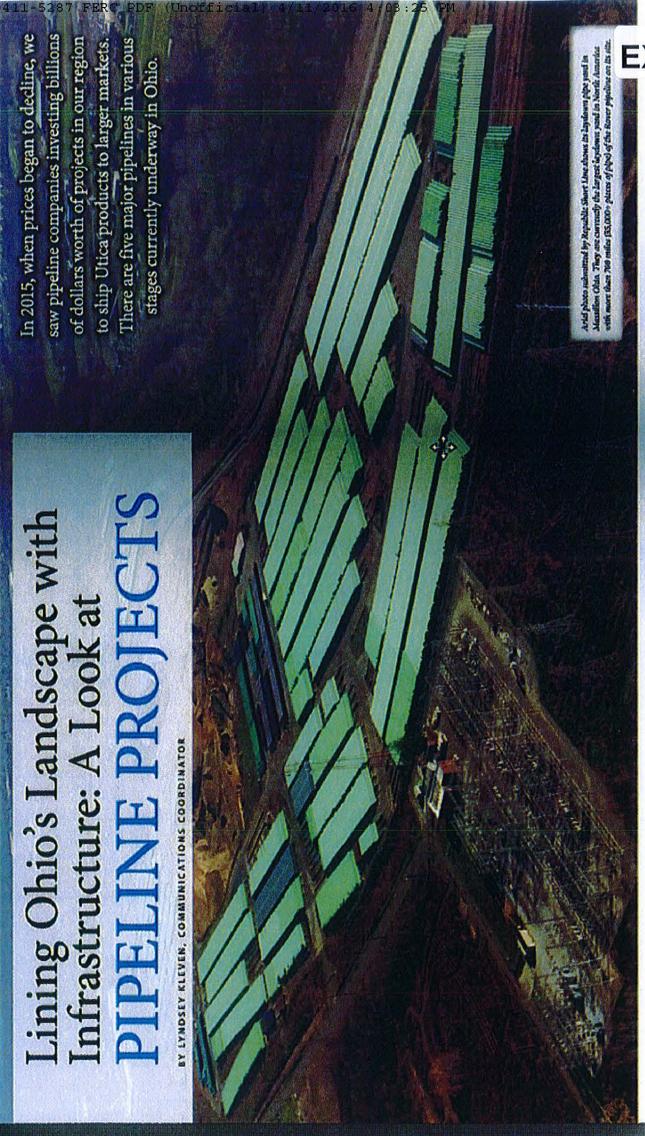
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COMPANIES AND ORGANIZATIONS

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Appendix T



COVER STORY ■

Lining Ohio's Landscape with Infrastructure: A Look at PIPELINE PROJECTS

BY LYNDSEY KLEVER, COMMUNICATIONS COORDINATOR

In 2015, when prices began to decline, we saw pipeline companies investing billions of dollars worth of projects in our region to ship Utica products to larger markets. There are five major pipelines in various stages currently underway in Ohio.

With pipeline construction by the hundreds, there is no doubt an impact on the region's landscape. Ohio's energy infrastructure is being transformed by a new wave of pipeline construction. The state's pipeline network is being expanded to meet the demand for energy products. The state's pipeline network is being expanded to meet the demand for energy products. The state's pipeline network is being expanded to meet the demand for energy products.

EXHIBIT N

CO20-81
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COMPANIES AND ORGANIZATIONS

CO20 – Emens & Wolper Law Firm, LPA (cont'd)

Appendix T

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Republic Short Line laydown pipe yard in Massillon Ohio; claimed to be the largest laydown yard in North America with more than 700 miles (55,000 pieces of pipe) of the Rover pipeline.

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Republic Short Line laydown pipe yard in Massillon Ohio; claimed to be the largest laydown yard in North America with more than 700 miles (55,000 pieces of pipe) of the Rover pipeline.

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