



March 17, 2021

Tristan Brown, Acting Administrator
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Falcon Ethane Pipeline System

Dear Acting Administrator Brown:

We write to you with a serious matter regarding Shell Pipeline Company's Falcon Ethane Pipeline System (Falcon Pipeline).

Serious safety concerns regarding the Falcon Pipeline's construction have been reported to your agency, including:

- 1) the pipeline may have been constructed with defective corrosion coating protection;¹
- 2) witnesses have reported instances of falsification of records and reports, including reports of inadvertent returns;¹
- 3) witnesses have reported instances of retaliatory firings by Shell Pipeline Company;¹

During this time, the public has been kept in the dark about these issues, which put their safety and drinking water resources, including the Ohio River, at risk. The only publicly available documents relating to PHMSA's response to these serious allegations is a Notice of Amendment the Administration issued on 07/16/2020, which cited several inadequacies with the Falcon Pipeline's construction, but did not address all of the issues outlined above.²

As the Acting Administrator of PHMSA, the agency in charge of regulating the safe construction and operation of this pipeline, we the undersigned call on you to **thoroughly examine these allegations and suspend construction of the pipeline if not yet completed, and if complete, suspend operation of the Falcon Pipeline** until your investigations are complete and PHMSA determines this pipeline will not threaten public safety. In light of serious concerns brought to PHMSA's attention about the accuracy of Shell Pipeline Company's reporting of

¹ Secretary Patrick McDonnell, PA DEP <https://app.box.com/s/6khvc3qujv94yfokd7zvezpox35st>

² Enforcement Action Webpage, PHMSA:
https://primis.phmsa.dot.gov/comm/reports/enforce/CaseDetail_cpf_120205011M.html?nocache=9338#_TP_1_tab_1



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incidents, this investigation must include independent testing of the integrity of the pipeline, as was required for the Mariner East 1 Pipeline.

We further call on you to provide to the public all of your agency's investigations into the Falcon Pipeline.

Thank you for your expeditious attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Brook Lenker". The signature is fluid and cursive.

Brook Lenker
Executive Director

FracTracker Alliance
704 Lisburn Rd
Ste 102
Camp Hill, PA 17011

C: Acting Chair M. Beth Trombold, Public Utilities Commission of Ohio
Chairman Gladys Brown Dutrieuille, Pennsylvania Public Utility Commission
Chairman Charlotte Lane, Public Service Commission of West Virginia
Secretary Pete Buttigieg, U.S. Department of Transportation
Chairman Peter DeFazio, U.S. House Committee on Transportation and Infrastructure
Chairman Donald Payne, Jr., U.S. House Subcommittee on Railroads, Pipelines and
Hazardous Materials
Chairman Carolyn Maloney, U.S. House Committee on Oversight and Reform
Representative Jackie Speier, U.S. House Committee on Oversight and Reform



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Acting Chair M. Beth Trombold
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180 E. Broad St.,
Columbus, OH 43215

Chairman Gladys Brown Dutrieuille
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201

Chairman Charlotte Lane
Public Service Commission of West Virginia
201 Brooks St
Charleston, WV 25301

Re: Shell Pipeline Company LP's Falcon Ethane Pipeline System

Dear Acting Chair Trombold, Chairman Brown Dutrieuille, and Chairman Lane:

We write to you with a serious matter regarding Shell Pipeline Company LP's Falcon Ethane Pipeline System (Falcon Pipeline), which crosses 10 municipalities in Pennsylvania, 12 townships in Ohio, and northern Hancock County, West Virginia.

The Pennsylvania Department of Environmental Protection (PA DEP), the Pennsylvania Office of Attorney General, the Pipeline Hazardous Materials Safety Administration, and the United States Environmental Protection Agency have been involved in investigations into serious safety and environmental concerns regarding the Falcon Pipeline's construction for over a year.¹

Allegations discovered in this investigation include:¹

- The pipeline may have been constructed with defective corrosion coating protection
- Workers may have falsified records and reports, including reports of inadvertent returns
- Shell Pipeline Company LP may have fired workers in retaliation for reporting incidents

During this time, the public has been kept in the dark about these issues, which put their safety and drinking water resources, including the Ohio River, at risk. The possibility of defective corrosion coating protection raises concerns about the risk of product release, landslides, and explosions.¹

Our organizations have called on the Pipeline and Hazardous Materials Safety Administration (PHMSA) to complete a thorough investigation into the Falcon Pipeline. We understand that your agencies' certifications through PHMSA's Office of Pipeline Safety to inspect pipelines and

¹ Secretary Patrick McDonnell, PA DEP <https://app.box.com/s/6khvc3qujv94yfqfkd7zvzempox35st>



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enforce regulations may vary, and/or limit your jurisdiction over this interstate hazardous liquid pipeline. However, we have seen the important role that investigators at the Pennsylvania Public Utility Commission have played in investigating the Mariner East Pipelines, including the Mariner East 1's corrosion control program, which are also interstate hazardous liquid lines.

Given the serious threat these allegations pose to residents in Ohio, Pennsylvania, and West Virginia, we the undersigned are calling on you to coordinate with PHMSA to do the following:

- 1. Suspend construction of the pipeline if not yet completed, or, in the case that construction is complete, halt operation of the pipeline, until your investigation can prove that operating this pipeline will not threaten public safety. In light of serious concerns brought to PHMSA's attention about the accuracy of Shell Pipeline Company's reporting of incidents, this investigation must include independent testing of the integrity of the pipeline, as was required for the Mariner East 1 Pipeline.**
- 2. Employ all enforcement actions at your disposal to ensure Shell Pipeline Company follows the law.**
- 3. Complete a thorough investigation into the pipeline coating concern.**
- 4. Provide to the public the main findings and status of your agency's investigation and any enforcement action taken.**

Thank you for your expeditious attention to this matter.

Sincerely,

Brook Lenker

A handwritten signature in black ink that reads "Brook Lenker". The signature is written in a cursive style with a long, sweeping underline.

Brook Lenker
Executive Director

FracTracker Alliance
704 Lisburn Rd
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Camp Hill, PA 17011

C: Tristan Brown, Acting Administrator, Pipeline and Hazardous Materials Safety Administration



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Secretary Patrick McDonnell
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Office of the Secretary
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Harrisburg, PA 17105-2063

Director Laurie Stevenson
Ohio Environmental Protection Agency
50 W Town St
Unit 700
Columbus, OH 43215

Cabinet Secretary Harold Ward
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

Re: Shell Falcon Ethane Pipeline System

Dear Secretary McDonnell, Director Stevenson, and Secretary Ward,

We write to you with a serious matter regarding Shell Pipeline Company's Falcon Ethane Pipeline System (Falcon Pipeline), which crosses 10 municipalities in Pennsylvania, 12 townships in Ohio, and northern Hancock County, West Virginia.

The Pennsylvania Department of Environmental Protection (PA DEP), the Pennsylvania Office of Attorney General, the Pipeline Hazardous Materials Safety Administration, and the United States Environmental Protection Agency have been involved in investigations into serious safety and environmental concerns regarding the Falcon Pipeline's construction for over a year.¹

During this time, the public has been kept in the dark about these issues, which put their safety and drinking water resources, including the Ohio River, at risk.

We understand that investigations may be ongoing and we are grateful for any continued attention on this matter from your agencies. We look forward to the time when the details of these investigations can be disclosed to the public.

¹ Secretary Patrick McDonnell, PA DEP <https://app.box.com/s/6khvc3qujv94yfokd7zvzempox35st>

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However, based on information available to us, the allegations of wrongdoing by Shell Pipeline Company, listed below, are serious enough to warrant urgent action:

- 1) the PA DEP's findings that the Falcon Pipeline may have been constructed with defective corrosion coating protection, which raises concerns about the risk of product release, landslides, and explosions;¹
- 2) the PA DEP's findings that witnesses have reported instances of falsification of records and reports, including reports of inadvertent returns;¹
- 3) the PA DEP's findings that witnesses have reported instances of retaliatory firings by Shell Pipeline Company;¹ and
- 4) concerns with Shell Pipeline Company's execution of horizontal directional drills (HDDs), which are worsened by the aforementioned falsified records accusation. FracTracker Alliance has previously called attention to chronic issues with the Falcon's HDD crossings, which include: over 70 instances of fluid losses at HDD sites, releasing over 245,530 gallons of drilling fluid in Ohio and Pennsylvania; inaccurate and missing inadvertent return reports; and failure to follow the "Inadvertent Returns from HDD: Assessment, Preparedness, Prevention and Response Plan," which states that drilling rigs must be equipped with instruments to measure and record in real time drilling fluid discharge.^{2,3}

With over 20 HDD sites along the Falcon Pipeline, including one beneath the Ohio River, these issues raise serious threats to drinking water systems as well as potential harms to aquatic life. Other problem-riddled pipeline construction projects in this region, including the Rover Pipeline and Mariner East 2 Pipeline, demonstrate the serious harm to waterways and drinking water sources that occur when HDDs are not carefully executed.

For all of the above reasons, we, the undersigned organizations, call on the PA DEP, the Ohio Environmental Protection Agency, and the West Virginia Department of Environmental Protection to:

- 1) **Fully investigate Shell Pipeline Company's inadvertent return incidents on the Falcon Pipeline, including an analysis of impacts to water resources (e.g., wetlands, drinking water supplies) and any other non-water impacts (e.g., habitat loss) along the full length of the pipeline route.**

² FracTracker Alliance <https://www.fractracker.org/2020/06/falcon-pipeline-construction-releases-over-250000-gallons-of-drilling-fluid/>

³ Aileen Evan, PA DEP:

<https://files.dep.state.pa.us/RegionalResources/SWRO/SWROPortalFiles/Shell/ShellFalconPipeline/What'sNew/NOV/NOV-%20Shell%20Falcon%20HDD%20violations%20110719.pdf>



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- 2) **If Shell Pipeline Company has not yet completed construction of the Falcon Pipeline, your agencies should halt all construction until the investigations are completed and it can be ensured the project will not continue to damage water resources in the future.**
- 3) **Require Shell Pipeline Company to complete any necessary remediation.**
- 4) **Take all necessary enforcement actions at your disposal to ensure Shell Pipeline Company complies with applicable laws.**
- 5) **Provide to the public all analyses of impacts and remediation plans and progress.**
- 6) **Require Shell Pipeline Company to provide independent testing of drinking water wells for residents along the Falcon for those who request it. FracTracker Alliance has identified 240 groundwater wells within 1/4 mile of the pipeline (note, the pipeline route and HDD locations have slightly changed since this analysis was completed): <https://www.fractracker.org/2018/1/falcon-water-crossings/>**
- 7) **Request that the Pipeline and Hazardous Materials Safety Administration halt operation of the pipeline and complete a thorough investigation into the pipeline coating concern.**

Thank you for your expeditious attention to this matter.

Sincerely,

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