

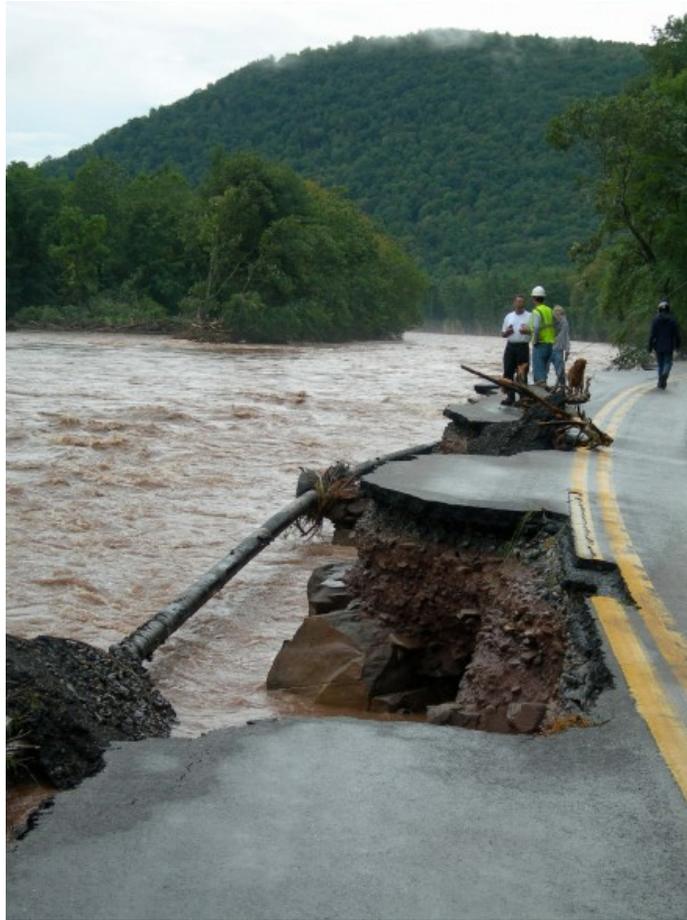
## Inergy's MARC 1 Pipeline At Crossroads

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By **Peter Mantius**, on October 6th, 2011

**Natural Resources News Service** | [4 comments](#)

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Exposed Petroleum Pipeline from September Flooding in the Loyalsock Watershed in Lycoming County, Pa. (Photo credit: Carol Kafer)

Severe flooding from Tropical Storm Lee in early September washed away the road that Carol Kafer used to take to work in the rural hills of northern Pennsylvania. Raging waters exposed a petroleum pipeline near the roadbed, complicating repairs and delaying for weeks the reopening to traffic.

At least, Kafer says, the disaster may finally awaken the Federal Energy Regulatory Commission to the potential environmental risks of a planned 39-mile natural gas pipeline, called the MARC 1, across her county.

On Sept. 20, Kafer sent FERC a picture of the swollen creek, washed out road and dangling pipe, adding, "Please delay granting a permit ... until it can be determined what the consequences of flooding will be to the MARC 1."

That same day, U.S. Sen. Claire McCaskill, a Democrat from Missouri, wrote FERC's chairman to urge the commission to grant the permit immediately. The letter did not mention flooding.

FERC can accommodate Kafer or McCaskill, not both.

Kafer has solid credentials as a local intervener. President of the Loyalsock Creek Watershed Association and a Ph.D. in biology, she first notified FERC of her concerns about the MARC 1 last October. That was months before the federal Environmental Protection Agency and 35 state representatives from Pennsylvania weighed in, calling on FERC to require a full environmental impact study on the MARC 1 after FERC's staff had said an EIS was not necessary.

McCaskill also has more than a casual stake in the case. The permit applicant, Kansas City-based Inergy, is one of her more important Missouri constituents, a New

York Stock Exchange-traded energy firm with a market value of about \$3 billion. Furthermore, according to OpenSecrets.org, McCaskill's second largest campaign contributor since 2007 is Kansas City-based Husch Blackwell, the law and lobbying firm that Inergy retained to win FERC approval for the pipeline. McCaskill's 2006 campaign manager, Richard Martin, joined Husch Blackwell as a lobbyist in 2007. Federal Election Commission records show that Martin and 16 other Husch Blackwell employees contributed more than \$30,000 to "McCaskill for Missouri 2012," her senate campaign fund.

Husch Blackwell boasts deep ties with FERC. Former FERC chairman James Hoecker is a senior counsel in the firm's energy regulation unit in Washington, D.C. That unit is headed by William Demarest, who signs Inergy's FERC filings on the MARC 1. The firm's website says Demarest was the "principal legislative draftsman of the Natural Gas Policy Act of 1978," landmark deregulation that defined FERC's jurisdiction. When asked whether he or anyone at Husch Blackwell had encouraged McCaskill to write her letter, Demarest says, "We did not."

In his filings, Demarest has dismissed calls by the EPA and others for a full environmental impact statement for the pipeline, and he has characterized debate on the question as a "trumped up controversy."

In May, FERC's staff produced a 300-page environmental assessment that concluded that the pipeline would not significantly affect the quality of the environment and recommended that the commission approve it. But EPA argued in July that the assessment fell far short of requirements in the National Environmental Policy Act, which obliges FERC to "consider every significant aspect of environmental impact" of the pipeline. EPA noted that the FERC staff did not analyze the cumulative impacts of planned gas drilling wells, gathering lines and access roads that would feed into the MARC 1. Demarest later argued that that activity would not have "cumulatively significant impacts within the meaning of NEPA (National Environmental Policy Act)..."

FERC has received more than 22,000 comments on the MARC 1 case, including letters signed by a senior EPA official in Philadelphia, 35 Pennsylvania representatives and Earthjustice, a nonprofit environmental group representing several Pennsylvania organizations opposed to the pipeline.

"The approximately 22,000 Internet-generated form letters are evidence of little more than Earthjustice's prowess in generating form letters over the Internet, not of the existence of substantive controversy," Demarest wrote July 19. In an interview, Demarest says the bounds of what FERC must consider as a cumulative impact under NEPA have been established by the courts. Based on precedents in pipeline cases, he says, those bounds do not extend to Marcellus Shale well drilling.

In her Sept. 20 letter to FERC, McCaskill expanded on that argument, writing:



Senator Claire McCaskill

"Inergy has indicated that several groups with limited connection to the pipeline have attempted to thwart FERC's authority to issue final approval, potentially in an effort to delay or end the project all together. ...The issues raised by these groups are extraneous to the merits of the project and reflect an attempt to impact national energy policy at the expense of the pipeline project."

For Inergy, the MARC 1 represents a crucial connection for all its natural gas storage and pipeline properties in the Southern Tier of New York State with a hotbed of drilling in Pennsylvania's Marcellus Shale. That explains why the Inergy business unit that would develop the MARC 1 is named Central New York Oil and Gas Co., even though the entire pipeline would be in Pennsylvania.

Inergy says it plans to invest about \$315 million on the MARC 1 and related compressor stations and pipeline tie-ins.

The northern end of the MARC 1 would tie in to an existing Inergy pipeline that runs north to the Millennium pipeline, a major east-west line across the Southern Tier. That connector passes by Stagecoach, Inergy's largest gas storage facility in the region, just above the New York-Pennsylvania border near Binghamton, N.Y.



Inergy already stores liquid petroleum gas (LPG) at a facility 50 miles west of Stagecoach, and it is seeking permission from state regulators in New York to store LPG in salt caverns near Watkins Glen at the southern end of Seneca Lake. It also runs several smaller gas storage facilities in the area.

Inergy urgently needs approval from FERC because it told prospective investors that it expected to win regulatory approval for the MARC 1 by Sept. 30 and to complete pipeline construction by July 2012.

Although FERC failed to grant its approval by Inergy's Sept. 30 target date, the company remains confident about its schedule for the MARC 1. "We expect approval very soon and we intend to complete construction by summer 2012," Inergy spokeswoman Debbie Hagen says.

In August, Inergy launched plans for an initial public offering for its pipeline and storage subsidiary, Inergy Midstream. In an S-1 filing with the Securities and Exchange Commission dated Aug. 24, company officials projected that the Inergy Midstream's revenue for calendar year 2012 would exceed \$160 million, up from \$105.9 million for the 12 months ended June 30, 2011. That assumes the MARC 1 will be in place to contribute nearly \$20 million of that projected revenue bump next year.

Failure to meet projected revenue targets could further discourage investors, who have cooled toward the company in recent months due in part to weakness in its propane distribution unit. Inergy's share price has fallen roughly 40 percent since May, reaching a 52-week low of \$23.96 on Oct. 3.

Any delay by FERC in approving the pipeline could derail Inergy's construction schedule, McCaskill noted in her Sept. 20 letter: "I am told that a delay of even a few weeks could force construction of the pipeline to be deferred by a year or more and will likely burden ratepayers with additional costs."

Sen. Pat Toomey and Rep. Tom Marino, both Republicans, also weighed in with letters to FERC on Inergy's behalf. Their letters were dated before the worst flooding swept the MARC 1's path on and after Sept. 8.

Marino, whose Congressional district includes the pipeline corridor through Bradford, Sullivan and Lycoming counties, wrote on Aug. 19 that Inergy needed a positive ruling by Aug. 31. Four other Pennsylvania Congressmen signed on.

Toomey borrowed much of the wording in Marino's letter for his Sept. 7 letter to FERC. Neither Toomey nor his staff returned phone calls seeking comment on his letter.

Spokesmen for McCaskill and Marino responded to phone calls and accepted emailed questions on the MARC 1 case, but the senator and congressman did not respond to them.

Hagen, the spokeswoman for Inergy, calls McCaskill a "champion for Missouri businesses and a champion for job growth. "We appreciate her offer to reach out to FERC on behalf of the MARC 1 project," Hagen says. "A bipartisan group of members of the Pennsylvania congressional delegation also see the need for energy infrastructure created by the MARC 1 project as well as the need for 600 shovel-ready jobs. We appreciate their letters to FERC on behalf of the project."

But those senators and congressmen have not had the last word.

On Sept. 29, the EPA sent FERC another letter urging it not to rush to any final decision on the MARC 1. "I believe that the public interest and the environment would be best served by taking more time to fully assess impacts and implications of the MARC 1 project prior to issuing any final decision on certification." John R.



William  
Demarest, the  
Husch Blackwell  
attorney

Pomponio, a division head at EPA's office in Philadelphia, wrote FERC. He said FERC had not fully addressed EPA's concerns about water quality, forested lands, alternative routes and cumulative impacts of the pipeline.

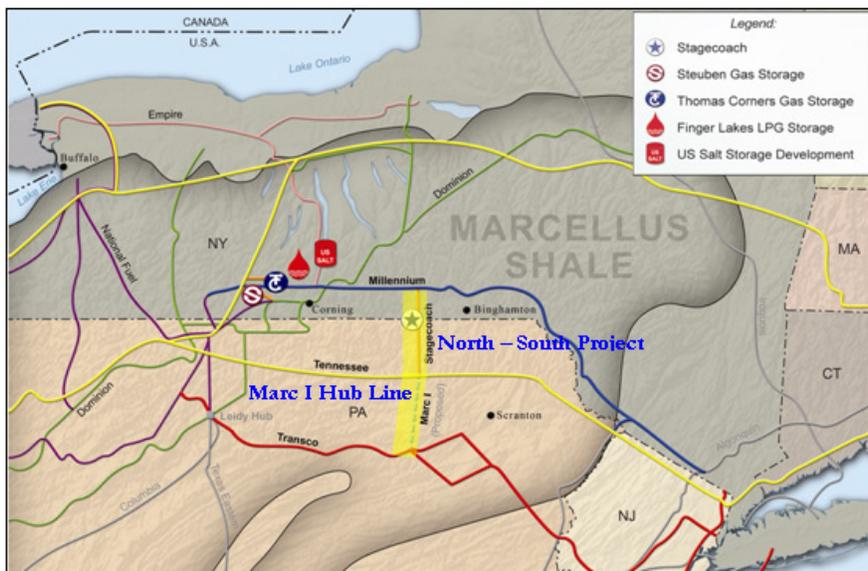
Those issues are closely related to points Kafer raised in a prescient June 28 letter to FERC. In it she warned of the danger of floods two months before they struck Sept. 8.

"The Loyalsock Watershed floods regularly," Kafer had written. "Part of the flooding is due to the steep valleys within the watershed, and part ... is due to deforestation and impermeable surfaces ... "Has any agency plotted the most likely distribution of well pads and selected a route for the MARC 1 that will minimize the number of acres of forest land destroyed by limiting the lengths of gathering lines?"

Demarest says flooding is not relevant to Inergy's pipeline application. "It has no bearing on a proposed pipeline which will go beneath the stream in such a manner as to not be affected by the flooding activity that was experienced."

He noted that the photograph Kafer submitted to FERC showed a petroleum pipeline that runs parallel to — not perpendicular to — the flooded waterway. He says the MARC 1 would be far less exposed because it would run perpendicular to waterway.

"It's a dramatic picture, but it's a dramatic picture that is 90 degrees off base," Demarest says.



The proposed MARC 1 pipeline in northern Pennsylvania would link Inergy's natural gas storage and pipeline properties in the Southern Tier of New York with a Marcellus Shale gas drilling hotbed below the New York-Pennsylvania border. (Source: Inergy)



**Peter Mantius**

Peter Mantius is a reporter in New York. He covered business, law and politics at The Atlanta Constitution from 1983-2000. He has also served as the editor of business weeklies in Hartford, CT, and Long Island. He is the author of Shell Game (St. Martin's Press 1995), a nonfiction book on Saddam Hussein's secret use of a bank office in Atlanta to finance billions of dollars in arms purchases from Western countries before the 1991 Persian Gulf War.

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Well, the pipeline looks secure to me!! It's the road thats not!! Maybe instead of fighting over the pipeline they should figure out ways to build better roads!!!!

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The Millennium Pipeline a subsidiary of Nisource (NI) is also being fast tracked to build a compressor station along it's line in Minisink NY and is facing intense local resistance. Minisink is known as the town of "Guns and Hoses" because it is home to many NYPD and FDNY employees. Thus it has many 911 first responders already suffering from respiratory illnesses. Despite the fact that there is potential for a significant health impact on these residents FERC is also doing a simple EA as opposed to a comprehensive EIS. The town, however, is determined to fight this and hold it's political representatives accountable. There is growing evidence off serious adverse health impacts from these types of facilities and if FERC approves and Nisource builds, residents are promising lawsuits against both.

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Where was that dangling pipe photographed?

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 **Peter Mantius** [1 week ago](#) [in reply to Joe Mosbrook](#)

Carol Kafer, the photographer, submitted the photo to FERC. In her comments to the commission, she identifies site as the Loyalsock Creek Watershed in Lycoming County, Pa., more specifically "a mile from my home, on Wallis Run Road very close to Butternut Grove Road." The MARC 1, as currently planned, would pass through the Loyalsock and Muncy Watersheds.

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