

## Report of Organizational Actions Affecting Basis of Securities

▶ See separate instructions.

**Part I Reporting Issuer**

1 Issuer's name  <b>TORTOISE PIPELINE &amp; ENERGY FUND, INC.</b>		2 Issuer's employer identification number (EIN)	
3 Name of contact for additional information  <b>PAM KEARNEY</b>	4 Telephone No. of contact  <b>(866) 362-9331</b>	5 Email address of contact  <b>TAXINFO@TORTOISEADVISORS.COM</b>	
6 Number and street (or P.O. box if mail is not delivered to street address) of contact  <b>11550 ASH STREET, SUITE 300</b>		7 City, town, or post office, state, and Zip code of contact  <b>LEAWOOD, KS 66211</b>	
8 Date of action  <b>11/30/2012</b>		9 Classification and description  <b>COMMON STOCK</b>	
10 CUSIP number  <b>89148H108</b>	11 Serial number(s)	12 Ticker symbol  <b>TTP</b>	13 Account number(s)

**Part II Organizational Action** Attach additional statements if needed. See back of form for additional questions.

14 Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action ▶ **TORTOISE PIPELINE & ENERGY FUND, INC. (TTP) PAID DISTRIBUTIONS TO COMMON SHAREHOLDERS DURING 2012 INCLUDING A PORTION THAT WAS DETERMINED TO BE NONTAXABLE UPON COMPUTATION OF TTP'S EARNINGS AND PROFITS AFTER THE TAX YEAR-END.**

15 Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis ▶ **A SHAREHOLDER'S BASIS IN TTP STOCK IS REDUCED BY THE NONTAXABLE PORTION OF DISTRIBUTIONS PAID PER SHARE, AS FOLLOWS: \$0.080491 ON 3/1/2012, \$0.080491 ON 6/1/2012, \$0.080738 ON 9/4/2012, AND \$0.080738 ON 11/30/2012.**

16 Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates ▶ **NONTAXABLE DISTRIBUTIONS ARE CONSIDERED RETURN OF CAPITAL AND REDUCE THE SHAREHOLDER'S BASIS IN ITS STOCK. NONTAXABLE DISTRIBUTIONS IN EXCESS OF THE SHAREHOLDER'S BASIS ARE TREATED AS CAPITAL GAIN.**

**Part II Organizational Action** (continued)

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ **TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).**

Multiple horizontal lines for listing applicable Internal Revenue Code sections and subsections.

18 Can any resulting loss be recognized? ▶ **N/A**

Multiple horizontal lines for providing information regarding loss recognition.

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ **N/A**

Multiple horizontal lines for providing other information necessary to implement the adjustment.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here

Signature ▶ *Brad Adams* Date ▶ 1/14/13

Print your name ▶ **BRAD ADAMS** Title ▶ **CFO**

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶	Firm's EIN ▶			
	Firm's address ▶	Phone no.			

## Report of Organizational Actions Affecting Basis of Securities

▶ See separate instructions.

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8 Date of action <b>11/30/2013</b>		9 Classification and description <b>COMMON STOCK</b>	
10 CUSIP number <b>89148H108</b>	11 Serial number(s)	12 Ticker symbol <b>TTP</b>	13 Account number(s)

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15 Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis ▶ **A SHAREHOLDER'S BASIS IN TTP STOCK IS REDUCED BY THE NONTAXABLE PORTION OF DISTRIBUTIONS PAID PER SHARE, AS FOLLOWS: \$0.006541 ON 3/1/2013, \$0.006541 ON 6/3/2013, \$0.006541 ON 9/3/2013, AND \$0.006541 ON 11/29/2013.**

16 Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates ▶ **NONTAXABLE DISTRIBUTIONS ARE CONSIDERED RETURN OF CAPITAL AND REDUCE THE SHAREHOLDER'S BASIS IN ITS STOCK. NONTAXABLE DISTRIBUTIONS IN EXCESS OF THE SHAREHOLDER'S BASIS ARE TREATED AS CAPITAL GAIN.**

**Part II Organizational Action** (continued)

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ **TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).**

Multiple horizontal lines for listing applicable Internal Revenue Code sections.

18 Can any resulting loss be recognized? ▶ **N/A**

Multiple horizontal lines for providing information regarding loss recognition.

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ **N/A**

Multiple horizontal lines for providing other information necessary for the adjustment.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

**Sign Here**

Signature ▶ *Brad Adams* Date ▶ 1/2/14

Print your name ▶ **BRAD ADAMS** Title ▶ **CFO**

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.



**Part II Organizational Action** (continued)

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ► **TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).**

Blank lines for listing applicable Internal Revenue Code sections.

18 Can any resulting loss be recognized? ► **N/A**

Blank lines for providing information regarding resulting loss recognition.

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ► **N/A**

Blank lines for providing other information necessary to implement the adjustment.

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Signature ► *Brad Adams* Date ► 1/12/18

Print your name ► **BRAD ADAMS** Title ► **CEO**

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ►				Firm's EIN ►
	Firm's address ►				Phone no.



**Part II Organizational Action** (continued)

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ TAX TREATMENT IS  
BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) and 316(a).

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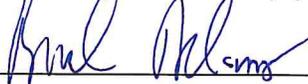
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19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ N/A

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Sign Here

Signature ▶  Date ▶ 1/16/2020

Print your name ▶ BRAD ADAMS Title ▶ CEO

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶	Firm's EIN ▶			
	Firm's address ▶	Phone no.			



**Part II** Organizational Action *(continued)*

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ \_\_\_\_\_  
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**Sign Here**  
Signature ▶ *P. Bradley Adams* Date ▶ \_\_\_\_\_  
Print your name ▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.



**Part II** Organizational Action *(continued)*

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).

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**18** Can any resulting loss be recognized? ▶ N/A

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**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ N/A

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**Sign Here** Signature ▶ Brad Adams Date ▶ \_\_\_\_\_

Print your name ▶ BRAD ADAMS Title ▶ CEO

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
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**Part II** Organizational Action *(continued)*

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ \_\_\_\_\_

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**18** Can any resulting loss be recognized? ▶ \_\_\_\_\_

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**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ \_\_\_\_\_

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Signature ▶ P. Bradley Adams Date ▶ 1/11/2024

Print your name ▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶	Firm's EIN ▶			
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**Part II Organizational Action** *(continued)*

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ **TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).**

Blank lines for listing applicable Internal Revenue Code sections.

18 Can any resulting loss be recognized? ▶ **N/A**

Blank lines for providing information regarding resulting loss recognition.

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ **N/A**

Blank lines for providing other information necessary to implement the adjustment.

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**Sign Here**  
Signature ▶  Date ▶ **Jan. 10, 2025**  
Print your name ▶ **Matthew G. P. Sallee** Title ▶ **CEO**

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.



**Part II Organizational Action** (continued)

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).

Multiple horizontal lines for providing details for question 17.

18 Can any resulting loss be recognized? ▶ N/A

Multiple horizontal lines for providing details for question 18.

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ N/A

Multiple horizontal lines for providing details for question 19.

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Sign Here

Signature ▶ *Brad Adams* Date ▶ 1-14-19

Print your name ▶ BRAD ADAMS Title ▶ CEO

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	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.



**Part II Organizational Action** *(continued)*

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ IRC Section 368(a)

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18 Can any resulting loss be recognized? ▶ No loss can be recognized by the shareholders of record on 12/20/2024 in the nontaxable reorganization.

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19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ Not applicable

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**Sign Here**  
Signature ▶  Date ▶ Jan. 10, 2025  
Print your name ▶ Matthew G P. Sallee Title ▶ CEO

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.



**Part II** Organizational Action *(continued)*

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ SEE ATTACHED

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**18** Can any resulting loss be recognized? ▶ SEE ATTACHED

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**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ SEE ATTACHED

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Signature ▶ \_\_\_\_\_ Date ▶ \_\_\_\_\_

Print your name ▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.

## Tortoise Pipeline & Energy Fund, Inc

### Attachment to IRS Form 8937

**Part II, Question 14:** Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action.

On November 1, 2023, Tortoise Power and Energy Infrastructure Fund, Inc. (TTP) completed a tender offer for shares of its common stock for \$32.04 per share, in cash, in accordance with the terms and subject to the conditions described in the Offer to Purchase dated October 2, 2023 (the "Tender Offer"). In total, TTP repurchased 105,819 shares of its common stock for aggregate consideration of approximately \$3,390,440.76

**Part II, Question 15:** Describe the quantitative effect of the organizational action on the basis of the security in the hand of a U.S. taxpayer as an adjustment per share or as a percentage of old basis.

Pursuant to Internal Revenue Code (IRC) Section 317(b), stock shall be treated as redeemed by a corporation if the corporation acquires its stock from a shareholder in exchange for property, whether or not the stock so acquired is cancelled, retired, or held as treasury stock. Accordingly, the repurchase of its shares by TTP in exchange for cash shall be treated as a redemption transaction for U.S. federal income tax purposes.

Pursuant to IRC Section 302, a redemption of stock is either treated as a sale or exchange of the redeemed stock or as a Section 301 distribution of property with respect to the redeemed stock, depending upon the facts and circumstances. Accordingly, depending upon a shareholder's specific facts and circumstances, the redemption will be treated as either as a sale/exchange of the tendered shares or as a distribution with respect to the stock. The redemption transaction may qualify for sale/exchange treatment under IRC Section 302(b) for some shareholders and as a distribution under IRC Section 301 for other shareholders.

It should be emphasized that the analysis required under IRC Section 302 is applied on a shareholder-by-shareholder basis. It should be noted that certain attribution rules must be considered in applying these rules. Accordingly, different shareholders may have different tax consequences as a result of the Tender Offer transaction. **Each shareholder should consult a tax advisor with respect to the specific application of IRS Section 302.**

#### **Redemptions Treated as Sale/Exchange of Shares**

Under IRC Section 302, a holder whose shares are purchased by the TTP in the Tender Offer will be treated as having sold its shares if the purchase:

- results in a "complete termination" of the holder's equity interest in TTP;
- results in a "substantially disproportionate" redemption with respect to the holder; or
- is "not essentially equivalent to a dividend" with respect to the holder.

Each of these standards are addressed in more detail below. In applying each of these standards, a redeeming shareholder needs to take into account stock which is attributed to such shareholder. **However, this is intended as a general overview only, and shareholders are**

**encouraged to consult their tax advisor to determine the proper federal income tax treatment of the Tender Offer transaction.**

***Complete Termination of Interest***

Shareholders who transfer 100% of their TTP shares in the Tender Offer transaction and have no ownership interest in TTP following the Tender Offer transaction will generally satisfy the “complete termination” test under IRS Section 302(b)(3) and qualify for sale/exchange treatment.

***Substantially Disproportionate Distribution***

Shareholders who do not transfer 100% of their TTP shares in the Tender Offer transaction may qualify for sale/exchange treatment if the redemption constitutes a “substantially disproportionate” distribution under IRC 302(b)(2). For this purpose, a distribution is “substantially disproportionate” if:

- The percentage of the voting stock actually and constructively owned by the shareholder immediately after the redemption is less than 80-percent of the percentage of the voting stock actually and constructively owned by such shareholder immediately before the redemption; and
- After the redemption, the shareholder owns less than 50-percent of the total combined voting power of all classes of stock entitled to vote (taking into account applicable attribution rules).

In addition, a shareholder’s ownership of the common stock of TTP (whether voting or nonvoting) after and before the redemption must also meet the 80 percent requirement outlined above.

***Not Essentially Equivalent to a Dividend***

Shareholders who do not qualify for sale/exchange treatment under the IRC Section 302(b)(3) (complete termination of interest) or IRC Section 302(b)(2) (substantially disproportionate) criteria outlined above may still qualify for sale/exchange treatment under IRC Section 302(b)(1) if the redemption is “not essentially equivalent to a dividend.”

An exchange of shares for cash pursuant to the Tender Offer will be treated as “not essentially equivalent to a dividend” if, taking into account the applicable constructive ownership rules, it results in a “meaningful reduction” in shareholder’s stock interest in TTP. Whether such a meaningful reduction of a shareholder’s stock interest in TTP results will depend on each shareholder’s particular facts and circumstances. The IRS has indicated in a published revenue ruling that even a small reduction in the percentage interest of a stockholder whose relative stock interest in a publicly held corporation is minimal (for example, an interest of less than 1%) and who exercises no control over corporate affairs should constitute a “meaningful reduction.” Note, however, that in the event that other shareholders exchange a greater percentage of their shares pursuant to the Tender Offer than a particular shareholder, the shareholder’s proportionate stock interest in TTP may increase immediately following the share repurchase

transaction, even if the shareholder exchanges shares for cash pursuant to the Tender Offer and does not actually or constructively acquire any additional shares.

**Qualification for sale/exchange treatment under IRC Section 302(b)(1) is fact-intensive and should be evaluated by a tax advisor.**

If a shareholder qualifies for sale/exchange under IRC 302(b) with respect to the Tender Offer transaction, the shareholder will recognize gain or loss for U.S. federal income tax purposes equal to the difference between the amount of cash received for the tendered shares and the shareholder's tax basis in the tendered shares.

#### **Redemptions Treated as Distributions**

Pursuant to IRC Section 302(d), a redemption transaction that does not qualify for sale/exchange treatment under IRC Section 302(b) is treated as a distribution of property to which IRC Section 301 applies.

Any such distribution would constitute a taxable dividend to the shareholder to the extent of TTP's earnings and profits ("E&P"), with no effect on the shareholder's tax basis in the shares.

Any distribution in excess of E&P would constitute a non-taxable return of capital to the shareholder, requiring a reduction of stock basis (to the extent thereof) and/or recognition of capital gain to the extent (if any) that the non-dividend portion of the distribution exceeds the shareholder's tax basis in the redeemed shares.

**Part II, Question 16:** Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates.

#### **Redemptions Treated as Sale/Exchange of Shares**

As noted above in the response to Part II, Question 15, if a shareholder qualifies for sale/exchange treatment with respect to the Tender Offer transaction, the shareholder will recognize gain or loss for U.S. federal income tax purposes equal to the difference between the amount of cash received for the tendered shares and the shareholder's tax basis in such shares.

Tax basis in retained shares will be unaffected by the redemption.

Note that special, more complex considerations may apply to the extent that a shareholder owns multiple tax lots of TTP stock acquired on different dates with different basis amounts. Separate gain/loss determinations are generally required, and special rules may apply relative to identification of shares redeemed for purposes of determining the applicable tax basis amount to be applied. The manner in which a shareholder calculates gain or loss can be complex, and shareholders should consult with their tax advisor.

#### **Redemptions Treated as Distributions**

TTP is in the process of computing its E&P for the year ended November 30, 2023. However, this analysis cannot be finalized until the November 30, 2023 tax return is filed. Therefore, TTP is unable to conclude as to whether redemptions treated as distributions will be taxable as a dividend at this time.

**Part II, Question 17:** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based.

IRC Section 301, IRC Section 302, IRC Section 312, IRC Section 317

**Part II, Question 18:** Can any resulting loss be recognized?

Shareholders who qualify for sale/exchange treatment could potentially recognize loss if the tax basis in the tendered shares is greater than the amount of cash received. The character and classification of any such loss is dependent upon a shareholder's particular circumstances and may be subject to limitation. Shareholders are urged to consult their tax advisors for purposes of determining the tax treatment of the repurchase transaction.

**Part II, Question 19:** Provide any other information necessary to implement the adjustment, such as the reportable tax year.

The Tender Offer transaction should be taken into account in the taxable year of the shareholder during which the redemption occurred – i.e., 2023 for calendar year taxpayers.

For additional discussion of the U.S. federal income tax consequences to shareholders as a result of the Tender Offer transaction, please refer to Section 15 of the Offer to Purchase dated October 2, 2023.

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This information does not constitute tax advice. This form provides a description of common tax consequences but does not purport to describe all tax consequences that may apply to all types of shareholders. Shareholders should consult a qualified tax advisor for any specific questions related to their specific tax treatment.



**Part II** Organizational Action *(continued)*

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ TAX TREATMENT IS BASED UPON INTERNAL REVENUE CODE SECTIONS 301(c) AND 316(a).

Blank lines for listing applicable Internal Revenue Code sections.

**18** Can any resulting loss be recognized? ▶ N/A

Blank lines for providing information regarding resulting loss recognition.

**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ N/A

Blank lines for providing other information necessary to implement the adjustment.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

**Sign Here**  
Signature ▶ P. Bradley Adams Date ▶ 1/10/23  
Print your name ▶ P. BRADLEY ADAMS Title ▶ CEO

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.



**Part II** **Organizational Action** *(continued)*

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ [SEE ATTACHED](#)

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**18** Can any resulting loss be recognized? ▶ [SEE ATTACHED](#)

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**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ [SEE ATTACHED](#)

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**Sign Here** Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Signature ▶ \_\_\_\_\_ Date ▶ \_\_\_\_\_

Print your name ▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.

## Tortoise Pipeline & Energy Fund, Inc

### Attachment to IRS Form 8937

**Part II, Question 14:** Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action.

On November 1, 2022, Tortoise Power and Energy Infrastructure Fund, Inc. (TTP) completed a tender offer for shares of its common stock for \$32.91 per share, in cash, in accordance with the terms and subject to the conditions described in the Offer to Purchase dated October 3, 2022 (the "Tender Offer"). In total, TTP repurchased 111,388 shares of its common stock for aggregate consideration of approximately \$3,665,779.08

**Part II, Question 15:** Describe the quantitative effect of the organizational action on the basis of the security in the hand of a U.S. taxpayer as an adjustment per share or as a percentage of old basis.

Pursuant to Internal Revenue Code (IRC) Section 317(b), stock shall be treated as redeemed by a corporation if the corporation acquires its stock from a shareholder in exchange for property, whether or not the stock so acquired is cancelled, retired, or held as treasury stock. Accordingly, the repurchase of its shares by TTP in exchange for cash shall be treated as a redemption transaction for U.S. federal income tax purposes.

Pursuant to IRC Section 302, a redemption of stock is either treated as a sale or exchange of the redeemed stock or as a Section 301 distribution of property with respect to the redeemed stock, depending upon the facts and circumstances. Accordingly, depending upon a shareholder's specific facts and circumstances, the redemption will be treated as either as a sale/exchange of the tendered shares or as a distribution with respect to the stock. The redemption transaction may qualify for sale/exchange treatment under IRC Section 302(b) for some shareholders and as a distribution under IRC Section 301 for other shareholders.

It should be emphasized that the analysis required under IRC Section 302 is applied on a shareholder-by-shareholder basis. It should be noted that certain attribution rules must be considered in applying these rules. Accordingly, different shareholders may have different tax consequences as a result of the Tender Offer transaction. **Each shareholder should consult a tax advisor with respect to the specific application of IRS Section 302.**

#### **Redemptions Treated as Sale/Exchange of Shares**

Under IRC Section 302, a holder whose shares are purchased by the TTP in the Tender Offer will be treated as having sold its shares if the purchase:

- results in a "complete termination" of the holder's equity interest in TTP;
- results in a "substantially disproportionate" redemption with respect to the holder; or
- is "not essentially equivalent to a dividend" with respect to the holder.

Each of these standards are addressed in more detail below. In applying each of these standards, a redeeming shareholder needs to take into account stock which is attributed to such shareholder. **However, this is intended as a general overview only, and shareholders are**

**encouraged to consult their tax advisor to determine the proper federal income tax treatment of the Tender Offer transaction.**

***Complete Termination of Interest***

Shareholders who transfer 100% of their TTP shares in the Tender Offer transaction and have no ownership interest in TTP following the Tender Offer transaction will generally satisfy the “complete termination” test under IRS Section 302(b)(3) and qualify for sale/exchange treatment.

***Substantially Disproportionate Distribution***

Shareholders who do not transfer 100% of their TTP shares in the Tender Offer transaction may qualify for sale/exchange treatment if the redemption constitutes a “substantially disproportionate” distribution under IRC 302(b)(2). For this purpose, a distribution is “substantially disproportionate” if:

- The percentage of the voting stock actually and constructively owned by the shareholder immediately after the redemption is less than 80-percent of the percentage of the voting stock actually and constructively owned by such shareholder immediately before the redemption; and
- After the redemption, the shareholder owns less than 50-percent of the total combined voting power of all classes of stock entitled to vote (taking into account applicable attribution rules).

In addition, a shareholder’s ownership of the common stock of TTP (whether voting or nonvoting) after and before the redemption must also meet the 80 percent requirement outlined above.

***Not Essentially Equivalent to a Dividend***

Shareholders who do not qualify for sale/exchange treatment under the IRC Section 302(b)(3) (complete termination of interest) or IRC Section 302(b)(2) (substantially disproportionate) criteria outlined above may still qualify for sale/exchange treatment under IRC Section 302(b)(1) if the redemption is “not essentially equivalent to a dividend.”

An exchange of shares for cash pursuant to the Tender Offer will be treated as “not essentially equivalent to a dividend” if, taking into account the applicable constructive ownership rules, it results in a “meaningful reduction” in shareholder’s stock interest in TTP. Whether such a meaningful reduction of a shareholder’s stock interest in TTP results will depend on each shareholder’s particular facts and circumstances. The IRS has indicated in a published revenue ruling that even a small reduction in the percentage interest of a stockholder whose relative stock interest in a publicly held corporation is minimal (for example, an interest of less than 1%) and who exercises no control over corporate affairs should constitute a “meaningful reduction.” Note, however, that in the event that other shareholders exchange a greater percentage of their shares pursuant to the Tender Offer than a particular shareholder, the shareholder’s proportionate stock interest in TTP may increase immediately following the share repurchase

transaction, even if the shareholder exchanges shares for cash pursuant to the Tender Offer and does not actually or constructively acquire any additional shares.

**Qualification for sale/exchange treatment under IRC Section 302(b)(1) is fact-intensive and should be evaluated by a tax advisor.**

If a shareholder qualifies for sale/exchange under IRC 302(b) with respect to the Tender Offer transaction, the shareholder will recognize gain or loss for U.S. federal income tax purposes equal to the difference between the amount of cash received for the tendered shares and the shareholder's tax basis in the tendered shares.

#### **Redemptions Treated as Distributions**

Pursuant to IRC Section 302(d), a redemption transaction that does not qualify for sale/exchange treatment under IRC Section 302(b) is treated as a distribution of property to which IRC Section 301 applies.

Any such distribution would constitute a taxable dividend to the shareholder to the extent of TTP's earnings and profits ("E&P"), with no effect on the shareholder's tax basis in the shares.

Any distribution in excess of E&P would constitute a non-taxable return of capital to the shareholder, requiring a reduction of stock basis (to the extent thereof) and/or recognition of capital gain to the extent (if any) that the non-dividend portion of the distribution exceeds the shareholder's tax basis in the redeemed shares.

**Part II, Question 16:** Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates.

#### **Redemptions Treated as Sale/Exchange of Shares**

As noted above in the response to Part II, Question 15, if a shareholder qualifies for sale/exchange treatment with respect to the Tender Offer transaction, the shareholder will recognize gain or loss for U.S. federal income tax purposes equal to the difference between the amount of cash received for the tendered shares and the shareholder's tax basis in such shares.

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