



# rethink energy Investments

Exploring Investment Risks of Fossil Fuel Infrastructure

*Examining the risks of new pipeline proposals in New Jersey a battleground state for companies seeking to market gas from the Marcellus Shale in Pennsylvania.*

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## April 2017

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### **Army Corps to FERC: Impossible to Estimate PennEast Review Timeline Due to <sup>3</sup>Incomplete<sup>2</sup> Application, Lack of Survey Access, Possible Compound Surveys Needed**

In an April 21 letter, [the U.S. Army Corps of Engineers wrote to FERC](#) saying that PennEast's permit application is currently <sup>3</sup>incomplete<sup>2</sup> and that it is <sup>3</sup>impossible<sup>2</sup> to estimate when PennEast will be able to submit the extensive required data, due to lack of survey access <sup>3</sup>to even begin many of the [aforementioned] surveys.<sup>2</sup> The Corps warned that the initial surveys could also <sup>3</sup>indicate that more in depth surveys are required.<sup>2</sup>

The Corps also noted that even once the permit is <sup>3</sup>complete<sup>2</sup> it cannot issue a permit until <sup>3</sup>coordination with other agencies is resolved<sup>2</sup> and until PennEast is in <sup>3</sup>full compliance<sup>2</sup> with all applicable laws and statutes.

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### **FERC Ignores Concerns from Officials, Scientists, Experts; Issues Final Environmental Impact Study for PennEast**

Despite a tidal wave of concerns expressed by US Senators Booker and Menendez of New Jersey, Representatives Lance (R-NJ), Watson-Coleman (D-NJ), and Fitzpatrick

(R-PA), plus numerous experts and scientists and state and federal agencies, the Federal Energy Regulatory Commission (FERC) issued a final Environmental Impact Study (EIS) for the PennEast pipeline on April 7th.

FERC acknowledged that the pipeline would have some impacts on forests, wetlands, wildlife and other resources, but said those impacts could be mitigated to less than significant levels. FERC acknowledged that significant surveys and data are still outstanding and pending review by other federal and state agencies and asserted that no construction could commence until those reviews are completed. Other agencies must still review the project under stricter regional and state laws, including the Delaware River Basin Commission and NJ Department of Environmental Protection.

Lawyers at Eastern Environmental Law Center and Columbia Environmental Law Clinic are expected to challenge PennEast in the courts should the project move forward. They stated that the final EIS by no means constitutes a final approval of the project, and added that for the pipeline to be approved, FERC must still consider whether there is any true public need for the project prior to issuing a Certificate.

Final action by FERC on PennEast is in limbo as the Commission currently lacks a quorum. Unless the President and Congress act swiftly to confirm at least one new Commissioner, PennEast could be subject to further costly delays.

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## **NJ DEP Urged to Reject PennEast Application for Permits**

In a [letter](#) to the New Jersey Department of Environmental Protection (NJ DEP), New Jersey Conservation Foundation and Stony Brook Millstone Watershed Association urged the NJ DEP to reject applications for a Freshwater Wetlands Individual Permit (FWIP) and Water Quality Certificate (WQC) filed by PennEast on April 6, calling the applications "unlawful" and "deficient" and emphasizing that PennEast does not have the legal authority to make the request.

"FERC is not the environmental agency responsible for protecting our waters, and its determination of whether a project may be built according to the Natural Gas Act is subject to the substantive review by the states," said Jennifer Danis, senior attorney for the Eastern Environmental Law Center. "This was a brazen attempt by PennEast to pressure and deceive NJDEP into deciding on permits before PennEast is legally allowed to apply for them, and far before it submits the required environmental data to NJDEP. This shows PennEast's total disregard for the rights reserved by the states under the Federal Clean Water Act."

NJ DEP said in a December 20, 2016 letter to the Federal Energy Regulatory Commission (FERC) that PennEast must first complete surveys and analysis for its entire proposed pipeline route before applying for state permits. In that letter, NJ DEP

noted that only 35% of the route had been surveyed. To date, PennEast still has not completed the majority of the surveys required for NJ DEP to begin its review.

["We have asked NJDEP to reject PennEast's attempt](#) to steamroll its unneeded pipeline over New Jersey's environmental protection laws," said Tom Gilbert, campaign director, New Jersey Conservation Foundation.

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## Conservation Groups, Homeowners Vow to Fight On

[Conservation groups and impacted homeowners condemned FERC's issuance of a final EIS for the PennEast pipeline](#) and vowed to double their efforts to stop the project from moving forward. Nearly 300 people rallied in Stockton, New Jersey the day after the final EIS was released, and signed a <sup>3</sup>Declaration of Opposition<sup>2</sup> to PennEast read by a George Washington reenactor on horseback.

<sup>3</sup>The fight to protect our water from the PennEast pipeline is far from over,<sup>2</sup> said Jim Waltman, executive director, Stony Brook-Millstone Watershed Association. <sup>3</sup>Not a single federal or state agency commented in support of this project, nor did any agency find FERC's draft environmental impact statement to be acceptable and nothing has changed since the draft EIS.<sup>2</sup>

These sentiments were echoed in [a recent editorial by the Asbury Park Press](#), in which the paper said, <sup>3</sup>There's little reason to believe New Jersey needs the PennEast pipeline.<sup>2</sup>

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## About

**ReThink Energy Investments** is a publication of ReThink Energy NJ. The newsletter looks at the risks facing new pipeline proposals in New Jersey, a battleground state for companies seeking to bring to market natural gas from the Marcellus Shale.

ReThink Energy NJ empowers New Jersey citizens by informing them about the need for reduced use of fossil fuels and pipelines that threaten our state's preserved lands, water, environment, public health, and communities. Our goal is a swift transition to efficient, clean and renewable energy.

ReThink Energy NJ is supported by New Jersey Conservation Foundation, Stony Brook-Millstone Watershed Association and Pinelands Preservation Alliance.

**For more information**, visit [rethinkenergynj.org](http://rethinkenergynj.org) and find ReThink Energy NJ on [Facebook](#) and Twitter [@rethinkenergynj](#).

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