



# 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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## May 2017

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### **NJDEP Returns Premature PennEast Permit Request Filed Without Legal Authority**

On April 26, the New Jersey Department of Environmental Protection deemed PennEast's application for permits to be incomplete and deficient. Among other issues, they indicated that the required surveying "has only been completed along approximately 14 miles of the proposed centerline in New Jersey," and that PennEast has only provided information for approximately 35 percent of the entire route.

Last month, in a [letter](#) to the NJDEP, the Eastern Environmental Law Center (EELC) urged the agency to reject PennEast's application for permits, referring to it as "unlawful" and "deficient" and emphasizing that PennEast does not have the legal authority to file for permits. A second letter sent to NJDEP on May 9 further detailed these deficiencies in the PennEast application.

<sup>3</sup>While NJDEP's response is clearly a setback for PennEast, NJDEP should have rejected the permit applications outright, and we will not relent until the agency does so," said Tom Gilbert, campaign director, New Jersey Conservation Foundation and ReThink Energy NJ. "PennEast's application fails to meet the basic requirements that govern NJDEP's review - especially lack of legal rights to most of the targeted properties.<sup>2</sup>

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### **Federal, State and Local Leaders Urge NJDEP to Reject PennEast**

## ***Bipartisan officials cite flaws in FERC's review of pipelines***

Led by U.S. Congresswoman Bonnie Watson Coleman, bipartisan lawmakers joined forces with citizen groups, homeowners and conservation leaders at a State House [press conference](#) in Trenton on May 10 to urge the NJDEP to reject PennEast's application for a Freshwater Wetlands Individual Permit (FWIP) and Water Quality Certificate (WQC), calling the applications "illegal."

Watson Coleman cited flaws in the Federal Energy Regulatory Commission's (FERC) review of pipelines and announced that she would re-introduce legislation The SAFER Pipelines Act that would require more stringent federal review of proposed pipelines, including economic analysis of the cumulative impacts of pipelines in a region and whether they are needed to meet public energy demands.

<sup>3</sup>FERC does not adequately examine the need or environmental impact for proposed pipelines. PennEast is an example of this negligence,<sup>2</sup> Watson Coleman said.

The outspoken Congresswoman is among a long and growing list of elected officials in New Jersey who have expressed grave concerns about PennEast, including U.S. Senators Cory Booker and Bob Menendez (D-NJ), Congressman Leonard Lance (R-NJ) and state Sen. Kip Bateman (R-District 16).

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## **NJR: Losing Faith in PennEast?**

During its 2Q [earnings call](#) held May 5, New Jersey Resources (NJR) neglected to disclose some important facts about PennEast, leaving some analysts to wonder why. Is NJR losing faith in PennEast?

Historically, PennEast has been a big part of NJR's presentations, with slides featuring the project's progress and promise to the company's future earnings. But in the Q2 earnings presentation, most PennEast information has gone missing, with only a few passing references.

One analyst, Brian Russo of Landenburg/Thalmann, asked about the omission during the Q&A session. NJR chief financial officer Patrick Migliaccio responded:

"Sure, PennEast, as Larry has said during his narrative that they<sup>1</sup>ve received their final environmental impact statement on April 7 and the next step in that process is to receive our final FERC certificate which is supposed to come in 90 days. We are certainly waiting for a quorum to be established at FERC in order to receive that certificate. So that's the next step in the process. So we are moving forward and hopefully that project will reach another milestone here in the next few months.<sup>2</sup>

While Migliaccio spoke to progress on the FERC front, he neglected to mention significant issues the project faces with NJDEP and US Army Corps of

Engineers. Migliaccio did not note that NJDEP called PennEast's Clean Water Act Water Quality permit application deficient, nor that it was filed without legal authority, nor that NJDEP indicated the application will be denied within 30-60 days unless PennEast is able to cure all its issues (which will be a significant challenge for the company given ongoing lack of survey access).

The US Army Corps of Engineers similarly indicated that the Clean Water Act Wetlands permit before them was also deficient, and refused to provide even an initial timeline to show a way forward for the project.

The emphasizing of PennEast in the NJR presentation, and omission of issues with multiple agency permits, could reflect a turn in NJR's thinking on the project's prospects.

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## Trump Nominates FERC Commissioners

### *\$50 billion backlog expected to further delay pipeline projects*

As reported by [Bloomberg News](#), President Trump nominated Neil Chatterjee, aide to Senate Majority Leader McConnell, and [Robert Powelson](#), a (PA) state utility regulator, to serve on the FERC - for terms expiring in 2021 and 2020, respectively.

Until the appointments are confirmed, FERC will remain without a quorum and unable to make major policy decisions.

[Bloomberg estimates](#) that \$50 billion in projects are held up by the quorum-less FERC. The backlog is expected to further delay PennEast among other pipeline projects.

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## NJ Division of Rate Counsel and USGS Scientist Reiterate PennEast Warnings

NJ Division of Rate Counsel's Stefanie Brand said that New Jersey gas companies have enough capacity to meet peak demand without PennEast and that the high cost of the PennEast project will be passed along to the public, when she addressed residents at a special session of the mayor and council in Lambertville, New Jersey on May 2.

At the meeting, former U.S. Geological Survey scientist Julia Barringer warned of environmental and safety dangers, including:

- Potential release of carcinogenic arsenic into groundwater and surface water;
- Release of carcinogenic radioactive elements from rocks to groundwater, surface water, and air.

- Endangerment of structures such as the Swan Creek Reservoir dam by blasting, drilling, and fracturing of bedrock.

Hundreds of residents attended the meeting, an indication of the growing concerns and unease about the potential impact the project could have on the City and the surrounding region.

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## New TV Ad Warns NJ Residents of Pipeline Risks to Health and Safety

A compelling new [television ad](#) from ReThink Energy NJ blasts the PennEast project, emphasizing a myriad of health, safety and financial risks to New Jersey residents including the threat of higher gas bills, arsenic in drinking water, damage to more than 50 streams, and deadly pipeline accidents that occur once per month on average in the US. The ad shows how the pipeline would scar sweeping vistas and protected waterways, taint drinking water, endanger residents, and burden ratepayers with higher costs.

The ad concludes: "The fact is, the proposed PennEast pipeline risks too much."

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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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