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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.

March 2018

NJ Says 'No' to PennEast Pipeline

NJDEP Denies Permit Application, NJ Attorney General Refuses Land Offers and Challenges FERC Certificate

On the first day of February, the New Jersey Department of Environmental Protection (NJDEP) notified PennEast that it was denying the pipeline's application for permits submitted in April of 2017, underscoring mounting uncertainty and risk over the project's future. PennEast won't be able to reapply until the company is able to provide significant outstanding data required by NJDEP to accept an application for review.

Tom Gilbert, campaign director, New Jersey Conservation Foundation (NJ Conservation) and ReThink Energy NJ, said: "The conditional Certificate that FERC recently issued for PennEast clearly states that the pipeline can't proceed without water permits from NJDEP."

According to Gilbert and scores of pipeline opponents throughout NJ, PennEast is wrongly claiming that FERC's Certificate means the project is a done deal. "That couldn't be further from the truth," Gilbert added. "The project cannot go forward without DEP's environmental review, which has not yet started."

The denial by NJDEP, following months of misinformation from PennEast about the proposed pipeline's in-service date, finally resulted in PennEast [admitting that the project is delayed](#) until 2019. As reported in its January newsletter, Enerplus, one of

PennEast's 12 shippers, expects that the proposed pipeline will be delayed until Q2 2019.

PennEast Land Grab Rejected by State of New Jersey and NJ Conservation Foundation

In the wake of NJDEP's denial of PennEast's application for a freshwater wetlands individual permit, on February 2 the State of New Jersey reinforced its commitment to its 60-year open space program by [rejecting offer letters from PennEast](#) Pipeline Co. to purchase rights to build its pipeline across taxpayer-preserved lands.

Since the program's inception in 1969, no lands owned or managed by the New Jersey Natural Lands Trust (NJNLT) have ever been condemned through eminent domain, [according to the NJNLT](#). The lands were preserved by New Jersey voters and set aside for the public and future generations to enjoy.

NJ Conservation, the largest land trust within the densely populated state, applauded the State's move and said that it has also rejected PennEast's offers to negotiate over the land NJ Conservation owns.

"The Murphy Administration has sent a clear message that it will uphold the integrity of preserved lands and the state programs that protect open space, farmland and historic sites for our children and grandchildren," said Michele S. Byers, executive director, NJ Conservation.

"Today, we reinforced the commitment to protect permanently preserved open spaces, by rejecting the offers from this destructive, unneeded gas pipeline," said Gilbert. "We will never voluntarily surrender these lands to PennEast without a fight."

NJ Attorney General, NJ Rate Counsel, Elected Officials, and Conservation Groups Challenge FERC Certificate

On February 16, the State of New Jersey's Attorney General [asked the Federal Energy Regulatory Commission \(FERC\) for a stay](#), as well as rehearing and recession of its January 19 order granting a conditional certificate of public convenience and necessity for PennEast. Although FERC has since stated that it will not be beholden to any particular timeline to review the requests, the State of New Jersey sent a letter on Feb. 28 stating that FERC must respond within 30 days.

The NJ Division of Rate Counsel, several state legislators, Mercer County, two municipalities, numerous landowners and several non-profit environmental organizations also challenged FERC's certificate for PennEast.

"The Commission's grant of a certificate to PennEast to construct and operate the Project was contrary to substantial evidence, and therefore arbitrary and capricious," said the NJ Rate Counsel. "Record evidence demonstrates that PennEast's precedent

agreements do not reflect genuine market demand. The evidence also demonstrates that the Project is not 'required by the present or future public convenience and necessity.'"

The NJ Attorney General also asserted its request for rehearing and stay by NJDEP and Delaware River Basin Commission. It stated:

"The State asks for a rehearing and rescission of the Order because the underlying environmental review fails to meet National Environmental Policy Act, 42 U.S.C. §§ 4321, et seq. ("NEPA"), requirements by relying on woefully insufficient data; failing to adequately consider the alternatives; failing to meet other federal environmental requirements, including minimizing impacts to wetlands before considering mitigation; and failing to require full information regarding drilling methods that could impact water quality under the Clean Water Act. Since the Commission relied on a fundamentally flawed Final Environmental Impact Statement in issuing the Order, the Order itself is also defective."

Governor Murphy Bullish on Clean Energy in NJ

Governor calls for ban on fracking in Delaware River Basin

Proponents of clean renewable energy in New Jersey applauded Governor Phil Murphy for protecting New Jersey and its drinking water by [supporting a ban on the harmful practice of fracking in the Delaware River Basin](#).

"Fracking should not have a role in the energy future of New Jersey," Gov. Murphy said. "We must continue to protect our residents from the risk of contaminated water and protect our environment from the harmful effects of fossil fuel extraction. We will continue to move toward a clean energy economy that takes the best interests of our environment and our residents into account."

"Just as we don't need the public health threats of fracking, we also don't need fossil fuel pipelines like PennEast that would pump fracked gas into the state," said Tom Gilbert. "The new administration has a clear vision for clean energy for our state, and polluting pipelines like PennEast are inconsistent with that future."

Governor Murphy also signed executive orders to advance offshore wind and to have New Jersey rejoin the Regional Greenhouse Gas Initiative, signaling his administration's commitment to address climate change and advance renewable energy. This new direction is inconsistent with new fossil fuel pipelines like PennEast.

Media coverage of Murphy's call for a fracking ban on the Delaware:

[NJ will vote for fracking ban in Delaware River basin Murphy announces/northjersey.com](#)

[New Jersey Finally Gets Behind Proposed Fracking Ban - Observer](#)

[Murphy: New Jersey backs ban on fracking - Herald](#)

[New Jersey governor calls for fracking ban in Delaware Watershed](#)

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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 and find ReThink Energy NJ on [Facebook](#) and Twitter [@rethinkenergynj](#).

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