



**For Immediate Release**

June 6, 2023

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**U.S. District Court Rejects Transco Pipeline Company Bid for Preliminary Injunction to Halt State Permit Appeals & Undermine Pennsylvania Environmental Hearing Board Jurisdiction**

*Pennsylvania Statewide:* The United States District Court for the Middle District of Pennsylvania denied an emergency motion by Transcontinental Gas Pipe Line Company, LLC to enjoin the Pennsylvania Environmental Hearing Board from hearing an appeal of state permits issued to the company's Regional Energy Access Expansion project. The state permits provide the basis for the Clean Water Act 401 certification given to the project. The appeal at issue was brought by the Delaware Riverkeeper Network, the Delaware Riverkeeper Maya van Rossum, and Citizens for Pennsylvania's Future. The company asserted that the Pennsylvania Environmental Hearing Board had no jurisdiction to hear the administrative appeal of the state issued permits and that any legal challenge had to proceed before the Federal Third Circuit Court of Appeals.

In a pointed opinion, the court stated that "Transco has failed to persuade us the [Natural Gas Act] strips the PA [Environmental Hearing Board] of its ability to review the REAE permits". The court went on to determine that Transco was unlikely to succeed on the merits of its claim, and was not irreparably harmed by the ongoing appeal before the EHB. For those reasons, Transco's motion to stop the appeal was denied.

"When it comes to natural gas infrastructure, the federal government has already severely curtailed the rights of people to protect themselves from the irreparable damage these projects inflict on our environment, community safety, and property rights. Over the years the scales have been tipped more and

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more in favor of the pipelines and the federal government. This victory is one small step of respect for the people of Pennsylvania, the rule of law and the rights of communities nationwide. This legal win will ensure the rights of impacted communities to challenge state issued approvals to natural gas pipelines through their state's administrative appeals process. A contrary ruling would have robbed the people of our right to avail ourselves of the state protected appeals process; and it would have robbed the state government of their legal authority to determine the permit process within their own boundaries. We are glad at the Delaware Riverkeeper Network that the court was so clear about our rights to appeal state approvals given to this damaging project," said **Maya van Rossum, the Delaware Riverkeeper, and leader of the Delaware Riverkeeper Network.**

"Fortunately, the federal court rejected Transco's attempt to muddy the legal waters and evade review of its proposal to cross and impact multiple miles of Pennsylvania's special protection waters," said **Jessica O'Neill, PennFuture's senior attorney.** "We will continue our challenge to these permits before Pennsylvania's Environmental Hearing Board because we continue to believe that the special protection designation matters."

"We are pleased that our appeal will continue before the Environmental Hearing Board, whose review is an integral part of Pennsylvania's administration of the laws that protect our water resources," said **Kacy Manahan, Senior Attorney representing van Rossum and the Delaware Riverkeeper Network** in the underlying permitting challenge before the Pennsylvania Environmental Hearing Board.

### **Background and Project Details:**

The Transco REAE project is an expansion of existing natural gas infrastructure that would involve the construction of new natural gas facilities in Pennsylvania, New Jersey, and Maryland. In Pennsylvania, the Project includes 22.2 miles of 30-inch diameter pipeline and associated structures in Luzerne County (the Regional Energy Lateral); 13.8 miles of 42-inch diameter pipeline and associated structures in Monroe County (the Effort Loop); modifications to Compressor Station 515 in Luzerne County, Compressor Station 195 in York County, and Compressor Station 200 in Chester County; modifications to the Mainline A Regulator in Bucks County and the Delaware River Regulator in Northampton County; modifications to three existing pipeline tie-ins; and new and expanded access roads and contractor staging areas.

The project obtained its Natural Gas Act certificate of public convenience and necessity from the Federal Energy Regulatory Commission on January 11, 2023. The project is also required to secure a Section 401 Certification pursuant to the Clean Water Act from each of the states through which the project

will pass. In order to secure a 401 Certification, the project must demonstrate it will comply with a State's water quality standards. Transco secured its Pennsylvania 401 Certification on March 30, 2022, and thereafter, on February 3, 2023, was granted Erosion and Sediment Control permitting pursuant to Chapter 102 of the Pennsylvania Code as well as Water Obstruction, Encroachment permitting pursuant to Chapter 105 of the Pennsylvania Code.

Delaware Riverkeeper Network, the Delaware Riverkeeper Maya van Rossum, and Citizens for Pennsylvania's Future appealed the state issued permits to the Pennsylvania Environmental Hearing Board on March 14, 2023. It is the exercise of Environmental Hearing Board jurisdiction over that appeal that Transco challenges in this case.

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