

**Delaware Riverkeeper Network ~ SCRAM ~ No Fracked Gas in Mass
Split Rock Sweetwater Prayer Camp of Ramapough Lenape Nation/ also
Education/Family Ministry Director St John's Episcopal Cornwall)
StopNED ~ Mason Pipeline Committee ~ Preserve Montgomery County Virginia
Northjersey Pipeline Walkers ~ Sullivan Alliance for Sustainable Development
New River Conservancy ~ Breathe Easy Susquehanna County
Protect Our Water Heritage Rights Coalition - POWHR
Mountain Lakes Preservation Alliance ~ ECHO Action NH & NH Pipeline Resistance
Gas Free Seneca ~ Seneca Lake Guardian, A Waterkeeper Affiliate
Patriots From The Oil & Gas Shales
OVEC-Ohio Valley Environmental Coalition ~ SAPE
Earth Action, Inc. ~ Orange Residents Against Pilgrim Pipelines
Winyah Rivers Foundation ~ ClimateMama
Landscape Alternatives LLC ~ Advocates for Cherry Valley
Concerned Citizens of Otego NY ~ PAUSE- People of Albany United for Safe Energy
AMP Creeks Council ~ Holland Township NJ Citizens Against the PennEast Pipeline
Citizens Coalition for a Safe Community ~ Yadkin Riverkeeper
New Jersey Tenants Organization ~ Union County (NJ) Peace Council
Grassroots Environmental Education ~ Food & Water Watch
Virginia Citizens Consumer Council ~ Friends of Buckingham
Occupy Bergen County ~ Milwaukee Riverkeeper
Sustainable Warwick ~ The Coalition to Reroute Nexus (CoRN)
Yogaville Environmental Solutions ~ Raging Grannies Eugene
Milkweed Poetry Workshop ~ Community 2000
Stop the Algonquin Pipeline Expansion ~ Rockfish Valley investments
FreshWater Accountability Project
Guernsey County Citizens Support on Drilling Issues
Catskill Citizens for Safe Energy
Berkshire Environmental Action Team, Inc. (BEAT)
Delaware Township Citizens Against the Pipeline (DTCAP)
RAPTORS - Rockingham Alliance for the Protection & Transformation of Our
Resources & Society
Sullivan Area Citizens for Responsible Energy (SACRED) ~ Sourland Conservancy
Prince William Soundkeeper ~ Resist the Pipeline ~ Save Carbon County
Interfaith Power & Light (DC.MD.NoVA)
Communities for Safe and Sustainable Energy ~ 350Brooklyn
Advocates for Springfield ~ Allegheny Defense Project
Sullivan County Residents Against Millennium ~ Environment New Jersey
Concerned Burlington Neighbors
Milford Doers/Residents of Crumhorn Mountain ~ ElizabethNielsClayWorkshop
Popular Resistance ~ The Banner ~ Madison350.org
Plymouth Friends of Clean Water ~ Compressor Free Franklin
Wild Virginia ~ Beyond Extreme Energy**

**We Are Seneca Lake ~ Sullivan Alliance for Sustainable Development
Sanford-Oquaga Area Concerned Citizens (S-OACC) ~ frackfreecatsskills
Concerned Residents of Oxford ~ 224 Main Street, LLC
Guardians of the Brandywine ~ Elmirans and Friends Against Fracking
St. Vincent's Catholic Church, Albany ~ Melanie Mintz Design
Complete It Cuomo ~ Albany County Legislature
SNYFGP ~ Pennsylvania Alliance for Clean Water and Air
New Progressive Alliance ~ Green America**

December 21, 2017

The Honorable Josh Shapiro
Attorney General of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Dear Mr. Shapiro,

We, representing communities across the nation being victimized by the Federal Energy Regulatory Commission's (FERC) misuse of power in its approval of interstate transmission pipeline projects, are turning to you for both strength and leadership. We write to urge you to use the full weight of your offices to speak up on behalf of New York State, and all states across the nation, to defend the right of states to review and approve, or reject (in whole or in part), interstate natural gas transmission pipelines.

FERC has recently declared New York's rejection of a Clean Water Act 401 Certification for a pipeline project null and void. Despite that determination being disputed by New York in court, FERC has gone ahead and granted the pipeline company authorization to begin construction – thereby seeking to ensure that even a positive outcome in favor of the state of New York will be rendered meaningless as the project will likely be fully or significantly constructed by the time such a determination is made.

FERC's actions in this case are an unprecedented usurpation of a federal authority specifically delegated to states in order to protect natural resources. In this case FERC's overreach not only usurped New York State's right and responsibility to protect water quality, but also the process necessary to ensure that protection.

Regardless of your state's position regarding fracking operations and its infrastructure, this is an issue of states' rights. We hope you will join with New York in defending them. That defense would ideally take the form of an amicus brief or some other formal stance on the matter.

The Clean Water Act and the Natural Gas Act specifically protect the rights of states to review and approve, disapprove, or approve with modifications, interstate natural gas pipeline projects that could harm the water resources of a state.

Section 401 Clean Water Act (CWA) states: "no [federal] license or permit shall be granted until the certification required by this section has been granted or waived." 33 U.S.C. § 1341(a)(1). Several courts, including the Supreme Court, have supported this authority, stating:

“without [Section 401] certification, FERC lacks authority to issue a license.”¹ and Section 401 “requires States to provide a water quality certification before a federal license or permit can be issued....”²

In addition, recognizing the important balance of power between the states, this legal authority preserved by the terms of the Clean Water Act is specifically referenced and preserved in the federal Natural Gas Act.

As it is entitled to do by these laws, on August 30, 2017, the State of New York denied a Section 401 Certification for the Millennium Pipeline Company’s Valley Lateral Project. This denial was issued within the mandatory one-year time from the date that New York determined Millenniums 401 Certification application to be complete, which occurred on August 31, 2016. Millennium argues that New York State was required to act within one year from the time the company submitted its permit application on November 23, 2015, despite the fact that New York had issued several notices that the company’s application was incomplete and identified additional information that was required for agency decisionmaking.

True to form, FERC sided with the pipeline company and unilaterally determined that New York state, despite its ongoing vigilance with regards to the project, had waived its 401 Certification authority and therefore Millennium was no longer bound to secure it – in other words, New York State’s denial of the 401 Certification was, according to FERC, meaningless as the state no longer had this power.

New York rightfully challenged, in court, this action by FERC to strip from the state its legal authority to protect its water resources using section 401 of the federal Clean Water Act.

Undeterred by the state’s legal opposition to FERC’s illegal act, on October 27, 2017 a member of FERC’s staff issued a notice for the Valley Lateral Project to proceed with construction. Millennium workers were soon after seen on the site preparing for construction activity.

New York state was forced to expend additional state resources to file with the Second Circuit for an emergency stay of the “Notice to Proceed with Construction” issued by the Federal Energy Regulatory Commission on October 27, 2017. Thankfully, on November 2, the court granted the stay, at least temporarily, until the court is able to consider the merits of New York’s filing for a Writ of Prohibition.

Across the nation, FERC is abusing its power. It is stripping states of their legal authority, it is undermining the rights of people to protect their property from the misuse of eminent domain authority, and it is flagrantly ignoring legal obligations to protect the environment and community rights.

In this situation, FERC is once again overstepping the bounds of the law by seeking to strip a state of its legal authority to protect its natural resources from harm by pipeline infrastructure.

We urge you to take strong and swift action to defend the rights of New York state, and all states, under section 401 of the Clean Water Act by taking a strong and formal stance against FERC’s actions to both declare New York’s authority waived and by issuing the Notice to Proceed while this matter is being handled in the courts.

¹ City of Tacoma v. FERC, 460 F.3d 53, 68 (D.C. Cir. 2006)

² PUD No. 1 of Jefferson Cnty. v. Wash. Dept. of Ecology, 511 U.S. 700, 707 (1994) (emphasis added).

We also urge you to take this moment to call for congressional hearings into FERC's many abuses of its power and our laws – without in depth investigation, including testimony from communities across the nation that have suffered at the hands of FERC, these kinds of abuses will continue and grow.

The stakes for our environment, for public health, and for states' legal authority could not be higher. Our responsibility could not be weightier. We urge you to act now; to act decisively; to act with commitment to the interests of your state and all Americans; to act as guardians of the rule of law.

With respect,

Maya van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network
George Billard, Co-Founder, SCRAM
Rosemary Wessel, Program Director, No Fracked Gas in Mass
Rebecca Roter, Chairperson, Co-Founder, Breathe Easy Susquehanna County
Sandy Schlaudecker
Kieran Conroy, Interfaith Member of Split Rock Prayer Camp Organizing Committee/Episcopal Educational Director, Split Rock Sweetwater Prayer Camp of Ramapough Lenape Nation/also Education/Family Ministry Director St. John's Episcopal Cornwall)
Cathy Kristofferson, Co-Founder, StopNED
Kathy Chapman, Co-Chair, Mason Pipeline Committee
Dianna Richardson, Vice Chair, Preserve Montgomery County Virginia
Diane Wexler, Co-Founder, Northjersey Pipeline Walkers
Richard Riseling, Board Member, Sullivan Alliance for Sustainable Development
George Santucci, President, New River Conservancy
Kelly Finan
Ellen Darden, Co-Chair, Protect Our Water Heritage Rights Coalition - POWHR
April Keating, President, Mountain Lakes Preservation Alliance
Stephanie A. Scherr, Director, ECHO Action NH & NH Pipeline Resistance
Yvonne Taylor, Vice President, Gas Free Seneca
Joseph Campbell, President, Seneca Lake Guardian, A Waterkeeper Affiliate
Craig Stevens, Founder, Patriots From The Oil & Gas Shales
Lakshmi Fjord
Vivian Stockman, Vice Director, OVEC-Ohio Valley Environmental Coalition
Susan McDonnell, Co-Founder, SAPE
Mary Gutierrez, Executive Director, Earth Action, Inc.
Leah Ford
Sandra Kissam, Chair, Orange Residents Against Pilgrim Pipelines
Cara Schildtknecht, Waccaamaw Riverkeeper, Winyah Rivers Foundation
Christine Ellis
Harriet Shugarman, Executive Director, ClimateMama
Lynn Marsh, Douglas DeLong, Trustees/Partners, Landscape Alternatives LLC
Lynn Ellen Marsh, President/Trustee, Advocates for Cherry Valley
Stuart Anderson, Community Organizer, Concerned Citizens of Otego NY
Diana Wright, Facilitator, PAUSE- People of Albany United for Safe Energy
Kelly Canavan, President, AMP Creeks Council
Lorraine Crown, Holland Township NJ Citizens Against the PennEast Pipeline
Paul Ferrazzi, Executive Director, Citizens Coalition for a Safe Community
Will Scott, Riverkeeper, Yadkin Riverkeeper
Matt Shapiro, President, New Jersey Tenants Organization

Diane Beeny, Chair, Union County (NJ) Peace Council
Patricia Wood, Executive Director, Grassroots Environmental Education
Wenonah Hauter, Executive Director, Food & Water Watch
Irene E. Leech, President, Virginia Citizens Consumer Council
Chad Oba, President, Friends of Buckingham
Lora Baum
Sally Jane Gellert, Chairperson, Committee of Correspondence, Occupy Bergen County
Cheryl Nenn, Riverkeeper, Milwaukee Riverkeeper
Russ Layne, Infrastructure Committee Co-Chair, Sustainable Warwick
Paul L. Gierosky, Co-Founder, The Coalition to Reroute Nexus (CoRN)
Susan Van Dolsen
Jeeva Abbate, Director, Yogaville Environmental Solutions
Laurie Granger, Founder and Organizer, Raging Grannies Eugene
Wendy Insinger, Co-Host, Milkweed Poetry Workshop
Roger Moss, President, Community 2000, Community 2000
Suzannah Glidden, Co-founder, Stop the Algonquin Pipeline Expansion
Richard Averitt, Partner, Rockfish Valley investments
Lea Harper, Managing Director, FreshWater Accountability Project
Greg Pace, Administrator, Guernsey County Citizens Support on Drilling Issues
Jill Wiener, Member, Catskill Citizens for Safe Energy
Jane Winn, Executive Director, Berkshire Environmental Action Team, Inc. (BEAT)
Kristin McCarthy, Director, Delaware Township Citizens Against the Pipeline (DTCAP)
Joshua Vana, Member, RAPTORS – Rockingham Alliance for the Protection & Transformation of Our Resources & Society
Karen London, Co-Founder, Sullivan Area Citizens for Responsible Energy (SACRED)
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Lynn S. Limpert
Caroline Katmann, Executive Director, Sourland Conservancy
Kate McLaughlin, President, Prince William Soundkeeper
Jill Averitt
Molsie Petty
James Michel, Co-founder, Resist the Pipeline
Linda Christman, President, Save Carbon County
Scott Ballin
William T. Kellner
Donna M. Honigman
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Jess Irish, Member, Sullivan County Residents Against Millennium
Doug O'Malley, Director, Environment New Jersey
Suzy Winkler, Co-Founder, Concerned Burlington Neighbors
Otto Butz, Founder, Milford Doers/Residents of Crumhorn Mountain
Elizabeth Niels, Owner, ElizabethNielsClayWorkshop

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Peter Drobny, Liason, We Are Seneca Lake
Linda Reik, Member, Board of Directors, Sullivan Alliance for Sustainable Development
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Melanie Mintz, Owner, Melanie Mintz Design
Christine Macpherson, Founder, Complete It Cuomo
Maxine Bogash
William Reinhardt, County Legislator, Albany County Legislature
Judy Sabri, Member, SNYFGP
Jenny Lisak, Co-Director, Pennsylvania Alliance for Clean Water and Air
Ed Griffith, Liason, New Progressive Alliance
Todd Larsen, Green America