

Delaware Riverkeeper Network ~ Keep Southeast Nashville Healthy
PTA- Green Local School District ~ Green Soccer Association
Green Meadows Home Owners Association
Green Lacrosse Club ~ Green Youth Football
Green Little League/Softball Federation ~ Gas Free Seneca
Seneca Lake Guardian, A Waterkeeper Affiliate ~ Toxics Action Center
FCCPR, Franklin Co Continuing the Political Revolution
Prince William Soundkeeper ~ South Coast Neighbors United
Earth Action, Inc.
FaCT-Faith Communities Together for a Sustainable Future
CARCS (Citizens Against the Rehoboth Compressor Station)
We Are Cove Point
Aquashicola/Pohopoco Watershed Conservancy
Stop the Algonquin Pipeline Expansion (SAPE) ~ Greening Greenfield
WWALS Watershed Coalition, Inc.
Concerned Citizens for a Safe Environment (CCSE)
Greenbelt Climate Action Network
Grassroots Environmental Education
No Sharon Gas Pipeline/Clean Energy Now
Breathe Easy Susquehanna County ~ Free Nelson
Living Rivers & Colorado Riverkeeper ~ Conestoga Community Group
Citizens Coalition for a Safe Community
Northjersey Pipeline Walkers ~ Advocates for Cherry Valley
River Healers ~ Schuylkill Pipeline Awareness
The Wei ~ People Over Pipelines ~ Pipeline Education Group
Waccamaw Riverkeeper ~ Winyah Rivers Foundation
Durham CCAP ~ PEACE Youth ~ Coalition to Reroute Nexus (CoRN)
Food & Water Watch ~ ECHO Action NH & NH Pipeline Resistance
Peacemakers of Schoharie County ~ Resist the Pipeline
Friends of Nelson ~ Green America ~ Berks Gas Truth
Rockfish Valley Investments, LLC ~ Environment New Jersey
Preserve Newport Historic Properties ~ Albany Bicycle Coalition
Home Energy Efficiency Team ~ SAYMA Earthcare Action Network
Sullivan Alliance for Sustainable Development
Big Bend Conservation Alliance
The Campaign for Clean Water Exceptional Value Team
Summers County Residents Against the Pipeline (SCRAP)

**The Delaware Township Citizens Against the Pipeline (DTCAP)
Steeleworks ~ OVEC-Ohio Valley Environmental Coalition ~ Stop NED
People Demanding Action**

PAUSE - People of Albany United for Safe Energy

Fair Compensation for Underground Natural Gas Storage

No Fracked Gas in Mass ~ Preserve Roanoke/Bent Mountain

Protect Our Water, Heritage Rights ~ Tinker Tree Play/Care

Carroll Engineering Corporation ~ Friends of Buckingham

Our Santa Fe River, Inc. ~ Concerned Citizens of Otego NY

Arden Enterprises ~ Preserve Giles County

Bucks Environmental Action ~ Bucks Sierra Club

Oregon Citizens Against the Pipelines ~ Milwaukee Riverkeeper

Preserve Newport Historic Properties ~ Peoples Climate Movement NY

Beyond Extreme Energy ~ Lange Tree Farm ~ New Progressive Alliance

Responsible Drilling Alliance ~ Interfaith Power & Light

350 Cape Cod

Hopewell Township NJ Citizens Against the PennEast Pipeline

City of Lambertville NJ Citizens Against the PennEast Pipeline

Delaware Township NJ Citizens Against the PennEast Pipeline

Kingwood Township NJ Citizens Against the PennEast Pipeline

Alexandria Township NJ Citizens Against the PennEast Pipeline

Holland Township NJ Citizens Against the Penn East Pipeline

Sustainable Medina County ~ Clean Water Action

Oregon Shores Conservation Coalition

350 New Jersey-Rockland County ~ HALT- PennEast

Advocates for Springfield, NY

Stop the West Roxbury Lateral Pipeline (SWRL)

Virginia River Healers ~ Greenbrier River Watershed Association

July 20, 2017

Congressman Jamie Raskin
431 Cannon House Office Building
Washington, D.C. 201515

Dear Congressman Raskin,

You are among a handful of members of Congress that have expressed an understanding of the harms that are being inflicted on communities across the nation as a result of the way the Federal

Energy Regulatory Commission (“FERC” or “Commission”) misuses its authority over natural gas pipelines, LNG exports and related infrastructure. In addition, you seem to recognize that meaningful reforms are needed and want to be part of identifying, advancing and securing those reforms. We are reaching out to gauge your interest in working with us to put in place these reforms.

It is with increasing frequency and growing magnitude, that the Federal Energy Regulatory Commission is abusing its authority and the law in alarming ways. After three decades of FERC’s unaccountable and irresponsible approach to energy development, the trust of the American people has been strained beyond the breaking point. And, to be honest, our trust that Congress wants to fix the problem is withering. We are hopeful that you will prove us wrong and become a champion for the kind of meaningful reform that is truly needed.

We are urging you to lead a call for Congressional hearings into the abuses of power and law being inflicted by FERC, infringing on property rights, states’ right, peoples’ rights, and environmental protection. We have assembled a dossier to document FERC’s abuses and brought representatives of beleaguered communities from across the nation to share their experiences in a Peoples Hearing held in Washington DC. Our findings demonstrate that Congressional hearings and investigation are needed.

We are urging you to be a lead voice opposing legislative rollbacks when it comes to review and/or approval of natural gas infrastructure.

And we are asking you to champion meaningful reforms that will prevent ongoing and future abuses of power and law by FERC. As it currently stands, the language of the Natural Gas Act is being misused by FERC to deny people of their legal and constitutional rights, to strip the legal authority of states, to undermine the authority of other federal agencies, to ignore the mandates of the Clean Water Act and the National Environmental Policy Act, to trample private property rights, to take from communities the protection of public parks, forests and conserved lands that they have invested heavily in protecting, to take jobs and destroy small businesses, to inflict on our communities health, safety and environmental harms, all for the benefit of a single industry seeking to advance its own corporate profits and business edge over its competitors.

With this letter, we are identifying for you the meaningful reforms that are needed. Recent pronouncements of soft ball legislative proposals will not remedy the abuses communities are suffering. Legislative proposals that are only focused on the public participation process of FERC and not the taking of the judicial, legal, state, property, or environmental rights we have been highlighting are simply not good enough. Soft ball legislative reforms that don’t go to the root of the problems we have been alerting you to will not receive our praise or support. A legislative proposal that is not a true legislative fix is an anathema to us.

These are among the reforms we need:

First and foremost, we need to remove the authority for review and approval of pipelines and other natural gas infrastructure from FERC. With this remedy many of the fixes listed below become no longer necessary. FERC has demonstrated its bias toward the natural gas infrastructure industry. The abuses and problems are so ingrained reform will be difficult if possible. The most effective approach would be to remove the power of pipeline and LNG approval from FERC and place it in the hands of another agency, one that has clean energy, community and environmental

protection goals as its priority mandate, and will do the cumulative and holistic review and decisionmaking, including prioritizing the clean energy options that are needed to protect communities, protect the environment, and minimize climate changing emissions.

If FERC retains authority over natural gas infrastructure including pipelines and LNG exports, then all of the below fixes are necessary because of the highly biased and abusive way FERC implements current laws including the Natural Gas Act, National Environmental Policy Act, Clean Water Act and others.

Remove the Power of Eminent Domain. The ability of FERC to give the power of eminent domain to private pipeline companies must be removed. There is no shortage of power in this nation now or in the foreseeable future. In addition, we have viable and growing clean energy pathways to follow, pipeline projects are routinely advanced to support corporate interests and goals rather than public benefit or need, and an increasing number of pipeline infrastructure projects are to serve the export of gas to overseas nations. Given all of these facts, the Commission has no business allowing a private company to use eminent domain for a self-serving project at the expense of American property rights. If a project is not good enough to curry the favor of landowners then it should not be powerful enough to take their property rights.

Remove language that results in preemption of state or local laws or authority. A fundamental underpinning of our nation is respect for the rights of states to govern within their boundaries and to ensure the protection of the health, safety and welfare of their people. States' rights are carefully honored throughout our nation's laws and history. Stripping states and municipalities of their legal authority, particularly given the tremendous health, safety and economic harms pipelines inflict on communities is not justified. In addition, there is no reason that natural gas pipeline projects should not be subject to the same laws that all other industries are subject to, and that other arms of the energy industry must comply with. To exempt interstate natural gas infrastructure from the state and local laws that apply to every other industry gives them an inappropriate competitive advantage. This respect for the rights of states to take leadership in the protection of their citizens is carefully recognized and provided for in the area of environmental protection, particularly the implementation of the Clean Water Act.

Prohibit FERC from approving a project and/or allowing it to proceed with any element of construction until all state and federal reviews/permit processes have been finalized and approvals/permits granted. Currently, FERC approves pipelines and allows them to proceed through phases of construction and eminent domain regardless of whether or not they have received all necessary reviews and approvals from other agencies including states. Consequently, pipelines have proceeded with the power of eminent domain and significant construction that inflicts irreparable harm on economic and environmental interests. The law needs to make clear that FERC cannot approve a project and allow it to proceed with any element of construction until all state and federal reviews/permit processes have been finalized and approvals/permits granted. Other approaches for addressing the concern:

- ⇒ **Clarify the law to make clear that State Section 401 Clean Water Act approvals have primacy in the FERC review and approval process.** Section 401 of the Clean Water Act specifically reads: "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). Requiring Section 401 certification from the states prior to federal action ensures that states' rights are honored, that state standards are met, and that public and private resources are not

unnecessarily lost. It also ensures that the federal government is held accountable to the same standards as private entities, an important point of equity. Despite this clear, black letter law and the important policy it represents, FERC routinely issues Certificates of Public Convenience and Necessity prior to state decisionmaking on 401 Certifications for FERC pipeline and infrastructure projects. The result is to undermine state authority, and in some instances, has resulted in the taking of property rights, damage of business, jobs and the environment for construction of a pipeline that a state ultimately rejects. 401 primacy prevents such irreversibly harmful outcome.

- ⇒ **Ensure Full Applicability of all Federal Laws.** Currently, FERC approves pipelines and allows them to proceed through phases of construction and eminent domain regardless of whether or not they have received all necessary reviews and approvals from other agencies, such as wetland permits from the US Army Corps or completed endangered species review from the U.S. Fish & Wildlife Service. The law needs to make clear that FERC cannot approve a project and allow it to proceed with any element of construction until all state and federal reviews/permit processes have been finalized and approvals/permits granted.

Prohibit projects from advancing to construction without having all permits/approvals/certifications necessary from any and all agencies that have authority.

Require a genuine demonstration of need for a project that is objectively verified by experts. To this end the following scenarios need to be addressed:

- Pipeline companies routinely assert “need” for a project because it will lower costs, improve profits or enhance the ability to compete with others in the gas and/or pipeline industry. These assertions demonstrate corporate goals and desires. None of these scenarios demonstrate public needs that warrant the economic, environmental or property rights harms inflicted by a project and so should be explicitly prohibited.
- Pipeline companies routinely assert need by presenting contracts for pipeline capacity that are from related corporate entities, as such they use their own connected operations to put forth an unverified claim of genuine need. Pipeline companies should be prohibited from engaging in self-dealing in need demonstration – no contractual in-dealing should be allowed for manufacturing need, i.e. company cannot claim it needs a new pipeline for a gas source that is itself or some subsidiary self or related company that is, in fact, just another form of itself.
- Pipeline companies routinely assert need so the company can tap into an alternative source of gas, regardless that there is no threat to the source for their business use, it is simply a preferred business option. Preferred business operations of this kind should not be allowed for asserting need.
- Pipeline company claims that end of pipeline communities “need” their gas are often debunked by experts in the field who are quickly ignored by FERC in their reviews. Expert reports challenging company claims of need should be given primacy in the review process, rather than being disregarded if in conflict with pipeline claims.
- “Need” considerations uniformly focus on the end goal of securing gas, rather than focusing on the end goal of securing energy. This means that clean energy or other viable alternatives are ignored in the FERC review and approval process. Consideration of need must focus on “energy” needs of the end users and require full and fair consideration of whether clean energy alternatives could fulfill the need for energy identified. Proof of need should include a mandated demonstration that renewable strategy cannot be used to fulfill energy goal being asserted

- Demonstration of need must be based on more than assertion that a pipeline or export facility has customers, it needs to demonstrate a genuine end-use need that cannot be fulfilled by renewable options;

Revisions of law are needed to address all of these scenarios as none of them demonstrate public needs that warrant the economic, environmental or property rights harms inflicted by a project and so should be explicitly prohibited.

The use of Tolling Orders should be prohibited. Tolling orders are routinely used to place people in legal limbo, unable to challenge a FERC approval even when the agency has allowed the company to use the power of eminent domain to take property rights and is approving construction and operation of project sections. If tolling orders are not prohibited then other mechanisms for addressing the problem include:

- ⇒ **Prohibit projects from advancing** in any way, shape or form, including eminent domain and/or construction, if there is an outstanding rehearing request/tolling order;
- ⇒ **Mandate FERC response to rehearing requests within 30 days** and prohibit projects from advancing in any way, shape or form during that period.

Instill Mandatory penalties and stop work orders for violations during construction, operation, and maintenance that are commensurate with the level of harm inflicted. Violations by pipeline companies during construction, operation and maintenance are routine, with hundreds documented for a single project. Also documented is FERC's failure to ever (never) issue a civil penalty or stop work order to address the violations. As a result, it is more cost beneficial for a pipeline company to ignore environmental protection laws than to comply with them. In addition, violations are reviewed by FERC in terms of company response, rather than magnitude of the severity of the incident. The law mandating penalties needs the level of penalty assessed to be based upon the severity of the environmental and community harm inflicted.

There should be a ban put in place on Liquefied Natural Gas Exports. If the goal of drilling and fracking is truly energy independence, that end goal is not served through exports. In addition, the level of community harm and sacrifice is too great for an energy supply that is then shipped overseas to support foreign nations, industries and users.

Provisions need to be placed in the law that ensure an appropriate level of accountability and oversight of the agency to both Congress and the people of the United States. Provisions should include:

- ⇒ Prohibit FERC's use of third party consultants with actual or potential bias.
- ⇒ Change structure of FERC commissioners – add a public representative Commissioner position.
- ⇒ Mandate removal of Commissioners that are demonstrated to engage in any degree of conflict in their decisionmaking.
- ⇒ Prohibit Commissioners or other agency staff from working for the pipeline, oil or gas industry, or any of their legal, messaging, lobbying or other related representatives, for a period of 5 years prior to, and a period of 5 years post, their employment with the agency.
- ⇒ Require a public advocate be appointed for each pipeline that is representative of environmental resources, property owners, public land interests that will be impacted by the project.
- ⇒ Put in place stronger requirements for information disclosure and timelines by which info has to be released.

- ⇒ Mandate Commissioners provide public hearing opportunities before them, as a body, before final decisionmaking;
- ⇒ Mandate FERC use latest science in analysis and decisionmaking;
- ⇒ Prohibit waivers, variations and/or changes to a project after its application been submitted for review by FERC; if changes are proposed mandate the new proposal be subject to the full agency and public review and approval process.
- ⇒ Add an environmental justice standard, including community involvement, for pipeline projects that are within a 10 mile proximity of an environmental justice community.
- ⇒ Prohibit self interest in FERC staff and Commissioners:
 - Prohibit investments in companies regulating,
 - Prohibit Commissioners or staff from being involved in decisions that benefit directly or indirectly the staff, Commissioner, their families or professional colleagues.
- ⇒ Mandate public hearings during NEPA process that are within 20 miles of any community that will be impacted by a proposed project;
- ⇒ Mandate minimum 120 days to comment on any FERC NEPA documents or proposed project approvals.

Mandate full and fair application of NEPA and prevent any rollback of this important and iconic information and review legislation. Among the clarifying and confirming provisions required:

- ⇒ Clarity on prohibition against segmentation and provide an expansive definition of that term;
- ⇒ Express obligation to ensure cumulative impact reviews and give that term an expansive definition;
- ⇒ Ensure review includes consideration of the fracking/drilling/shale gas extraction that a project induces and/or supports and the end uses of the gas whether it be a new power plant, export, industrial, residential;
- ⇒ Ensure consideration of alternatives not limited to alternate routes but includes alternative ways to create the energy that is asserted as needed;
- ⇒ Mandate robust health and safety impact analyses and prohibit projects that will adversely impact health and/or safety of a community/region.
- ⇒ Heightened scrutiny of affiliate relationships, wherein regulated utilities are the pipeline customers while their affiliates are investing as pipeline developers. Here's recent Congressional testimony on this particular issue: tinyurl.com/Peress-6-14-16

Require leadership from FERC for renewables:

- ⇒ change FERC's mission to include priority obligation to advance renewables;
- ⇒ seek a way to mandate/incorporate approval of the renewable energy option if it can be demonstrated to fulfill the claimed energy need being advanced by the pipeline company.
- ⇒ mandate FERC carry out a robust climate change analysis and if approval of a project demonstrates it will contribute climate change emissions and cannot demonstrate (when considering cradle to grave impacts of the source and/or end use of the gas) it will improve climate change conditions then FERC is mandated to reject the project.

For thirty years FERC has served as a rubber stamp agency for pipeline and LNG infrastructure. It has misused its authority and the law at every turn in order to advance these projects. Meaningful and substantive reforms are needed. Ideally Congress will hold Congressional hearings to expose the abuses and help identify and shape the reforms needed. But given that legislators are increasingly

putting forth window dressing fixes rather than the strong substantive reforms needed, we provide this robust list of fixes that need to be pursued firmly, quickly and without compromise.

Respectfully,

Maya K. van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network
Chris Tuley, President, Keep Southeast Nashville Healthy
Tammy Daly, Executive Member, PTA- Green Local School District
Tammy Daly, Recreational Director, Green Soccer Association
Tammy Daly, President, Green Meadows Home Owners Association
Jeremy Brueck, President, Green Lacrosse Club
Greg Mazzagatti, President, Green Youth Football
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Paul Ferrazzi, Executive Director, Citizens Coalition for a Safe Community
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Tom Burkett, Director, River Healers
Leah Zerbe, Co-Founder, Schuylkill Pipeline Awareness
Kimi Wei, CEO, The Wei
Agnes Marsala, President, People Over Pipelines
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Sara Steele, Steeleworks
Vivian Stockman, Vice Director, OVEC-Ohio Valley Environmental Coalition
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Howard C. Lopshire, PLS., PP., Carroll Engineering Corporation
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Judy Detrano, City of Lambertville NJ Citizens Against the PennEast Pipeline
Marty Wissig, Delaware Township NJ Citizens Against the PennEast Pipeline
Maureen Syrnick and Debra Kratzer, Kingwood Township NJ Citizens Against the PennEast Pipeline
Jacqueline Freedman, Alexandria Township NJ Citizens Against the PennEast Pipeline
Lorraine Crown, Holland Township NJ Citizens Against the Penn East Pipeline
Kathie Jones, Organizer, Sustainable Medina County
David Pringle, NJ Campaign Director, Clean Water Action
Phillip Johnson, Executive Director, Oregon Shores Conservation Coalition
Jerome Wagner, President, 350 New Jersey-Rockland County
Helen Davis Chaitman, Linda Christman, Vince DiBianca, Jacqueline Evans, Christiana Foglio, Michael Heffler, Ann Marshall, Maureen Syrnick & Rosalind Westlake, Board of Trustees, HALT- PennEast
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