



For Immediate Release

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FERC Denial of Rehearing Request Paves Way for Newest Court Challenge to PennEast Pipeline

Delaware Riverkeeper Network Files with a Number of Precedent Setting Issues

Washington, DC – Friday, August 10, as one of the last acts before FERC Commissioner Powelson left office, the FERC Commissioners denied the rehearing request of the Delaware Riverkeeper Network, the NJ Department of Environmental Protection and others. The denial paves the way for opponents to the project to access the courts in order to challenge the FERC Certificate approval issued January 19 of this year. In swift reaction, today, August 13, the Delaware Riverkeeper Network filed with the D.C. Circuit Court of Appeals challenging the FERC approval of the PennEast pipeline claiming the agency violated the Natural Gas Act and the National Environmental Policy Act in granting its approval.

“We knew that it was just a matter of time before FERC would deny our rehearing request, they have never granted such a request to any third-party pipeline challenger. Despite submitting our rehearing request January 24, seven months ago, we have been unable to file our lawsuit using the Natural Gas Act’s proscribed appeal mechanism until FERC officially denied the request. FERC has clearly violated the law on multiple fronts, from failing to demonstrate a legitimate need for the project, to ignoring critical issues such as the climate changing impacts of the project,” **said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.** “While we are sure that we will ultimately succeed in the courts, the concern in the meanwhile is that FERC has approved the use of eminent domain against landowners and is sure to approve construction as soon as legally possible. So, to some degree, this is going to be a race to defeat FERC’s approval of the project before it is too late. That is why ensuring that the Delaware River Basin Commission, US Army Corp, and states of New Jersey and Pennsylvania fulfill their legal obligations with regards to this project, including saying ‘no’ because construction will inevitably violate state, federal and basin commission laws, is so essential.”

The Delaware Riverkeeper Network had filed a Petition for a Writ of Mandamus and a separate Petition for Review challenging FERC’s authority to issue tolling orders that both sought a court order

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that FERC issue a final response to the organization's requests for rehearing. "We believe that the pressure of those two lawsuits may be why we got the rehearing response at this time. FERC routinely leaves organizations like ours in legal limbo using tolling orders for 15 to 24 months; 7 months is actually quick for a final response. We believe our mandamus action may have prompted the quicker than usual response," **van Rossum said.**

"We intend to pursue the other challenges to the tolling orders as well, as FERC's use of those orders is the type of a situation that we believe may meet the 'capable of repetition, yet evading review,' legal standard," **said Aaron Stemplewicz, Senior Attorney at the Delaware Riverkeeper Network.** FERC issued its Certificate approving the PennEast pipeline on January 19, 2018. The Delaware Riverkeeper Network filed its rehearing request to the FERC Certificate on January 24, 2018. FERC responded with a tolling order issued on February 22, 2018.

Pennsylvania has issued Clean Water Act 401 Certification for the project, but not the underlying state permits necessary to support the Certification. The Delaware Riverkeeper Network is actively engaged in a legal challenge against Pennsylvania's Clean Water Act Certification. New Jersey rejected certification because the PennEast pipeline company had not provided complete application information. Approvals are also required from the Delaware River Basin Commission and the US Army Corps of Engineers.

If built, the PennEast pipeline would cut through creeks, wetlands, forests and communities in Luzerne County; Carbon County; Northampton County; and Bucks County, Pennsylvania, and through communities in Mercer and Hunterdon Counties, New Jersey. The 116-mile fracked gas pipeline would include three laterals extending off the mainline, a compression station, and appurtenant above ground facilities.

A copy of DRN's legal filings can be found at:

<http://www.delawariverkeeper.org/sites/default/files/Petition%20for%20Review%20FERC%2C%20PennEast%20%282018-08-13%29.pdf>

http://www.delawariverkeeper.org/sites/default/files/Mandamus%20FERC%20PennEast_FINAL.pdf

<http://www.delawariverkeeper.org/sites/default/files/Petition%20for%20Review%20FERC%20PE%208.pdf>

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About the Delaware Riverkeeper Network

Delaware Riverkeeper Network (DRN) is a nonprofit membership organization working throughout the four states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.