



For Immediate Release: December 21, 2020

Contact: Maya van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network, 215-801-3043

Statement on EPA Motion to Dismiss Delaware Riverkeeper Network Challenge Denied by Federal Court

Today, the Eastern District of Pennsylvania denied EPA's motion to dismiss the Delaware Riverkeeper Network's complaint challenging EPA's Section 401 Certification Rule. The judge agreed with the Delaware Riverkeeper Network's (DRN's) arguments on both ripeness and standing.

"In recent years there has been a steady erosion of states' rights and people's rights in order to advance damaging projects like fracked gas pipelines. The 401 Certification Rule change we are challenging is the most recent clear and determined effort by the Trump administration to hamstring the ability of states to fulfill their right and duty to protect the natural resources and residents of their state. We weren't sure which way the court would rule. All too often, when it comes to pipelines, the courts have been willing to accept the arguments of government and industry that states and people should be forced to sit on the legal sidelines until the pipeline approval and construction process is so far along that even a successful legal challenge will come too late and only after a project is constructed and in operation," **said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.** "I think we are at a turning point in the battle against pipelines, that the courts are finally realizing that, in fact, justice delayed is justice denied and that there is an irreplaceable role for the courts that is not just about deferring to what government and industry want."

"Today's ruling recognizes the very real threat that the 401 Certification Rule poses to the Delaware River Watershed and affirmed DRN's right to seek redress in court on behalf of its members," **said Kacy Manahan, Senior Attorney at the Delaware Riverkeeper Network.**

On July 13, 2020, DRN filed a complaint in the U.S. District Court for the Eastern District of Pennsylvania, challenging the Trump administration's rollbacks to Section 401 of the Clean Water Act announced on June 1, 2020.

The proposed changes have particular relevance for fracked gas pipelines that have been on the leading edge of the debate about the strength and future of section 401. Until the rollbacks, a federal agency could not authorize a project such as a fracked gas pipeline until the state issued a 401 certification or waived their right to do so. The new rules seek to temper this authority in significant and illegal ways. A 2019 Executive Order issued by Mr. Trump emphasized that this changed rule was intended to help advance fossil fuel infrastructure.

View DRN's July 2020 challenge [here](#).

View the December 2020 Court opinion [here](#) and order [here](#).

###

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawareriverkeeper.org
www.delawareriverkeeper.org