



**For Immediate Release:**

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**Delaware Riverkeeper Network Statement Re: Decision in  
*Delaware Riverkeeper Network vs Federal Energy Regulatory Commission***

**Washington, D.C.** – The United States Court of Appeals upheld a district court decision rejecting Delaware Riverkeeper Network’s (DRN) due-process challenge to FERC’s funding mechanism and to FERC’s use of tolling orders.

DRN’s case sheds light on the fact that FERC can more easily seek greater funding from Congress if more pipeline projects are approved. The case also highlighted how FERC often issues tolling orders when faced with a rehearing request for a project, which are decisions that neither grant nor deny the rehearing requests, thereby placing challengers in what DRN refers to as legal limbo for indefinite period of time, thereby obstructing timely judicial review.

“The court had an opportunity today to protect people and the environment from FERC’s misuse of its legal authority. Instead the court chose, yet again, to defer to FERC and allow its blatantly biased decisionmaking to continue. Bias is evident on its face with FERC Commissioners approving every pipeline save one in 30 years, that is an extraordinary record, and yet the court chose to turn a blind eye. At the same time, the Court chose not to take on one of the most prevalent abuses of people’s rights inflicted by FERC. FERC routinely uses a legal loophole it created -- called a tolling order -- to rob people of the right to challenge pipeline projects before public and private property is taken by eminent domain, before forests are cut, before pipeline construction and before irreparable harm is inflicted. Rather than end this national abuse, the court chose not to weigh in at all – this despite the fact that every environmental group like the Delaware Riverkeeper Network or other people’s rights organizations seeking to challenge a FERC pipeline approval become the target of FERC tolling orders,” said **Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network**. “On the important issue of environmental rights and property rights sustaining our constitutional challenge, the court didn’t ask a single question during oral argument despite making denial of these rights a cornerstone of its decision. That is a disturbing and shocking element of this decision as there are very good answers to the ill informed position taken by the court. All that being said, nothing in this decision will change our position of acting as a regulatory watchdog over the decision-making of the agency,” added van Rossum.

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“While we were pleased that the D.C. Circuit affirmed our arguments on standing and that we claimed a viable cause of action, we are nevertheless very disappointed in the decision. Today the DC Circuit found that a federal agency that is entirely and fully funded by the very industry that it regulates is an acceptable way to fund the agency. We firmly believe that such a funding structure leads to bias on part of agency in its decision-making. Despite the fact that FERC has a near 100% approval rate for the pipeline projects that provide the basis for its funding, the Court nevertheless did not find sufficient evidence of bias. We believe the bias is self-evident, and that the case was wrongly decided,” said **Aaron Stemplewicz, senior attorney at Delaware Riverkeeper Network.**

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*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.*