

# Next Steps on Fighting the PennEast Pipeline

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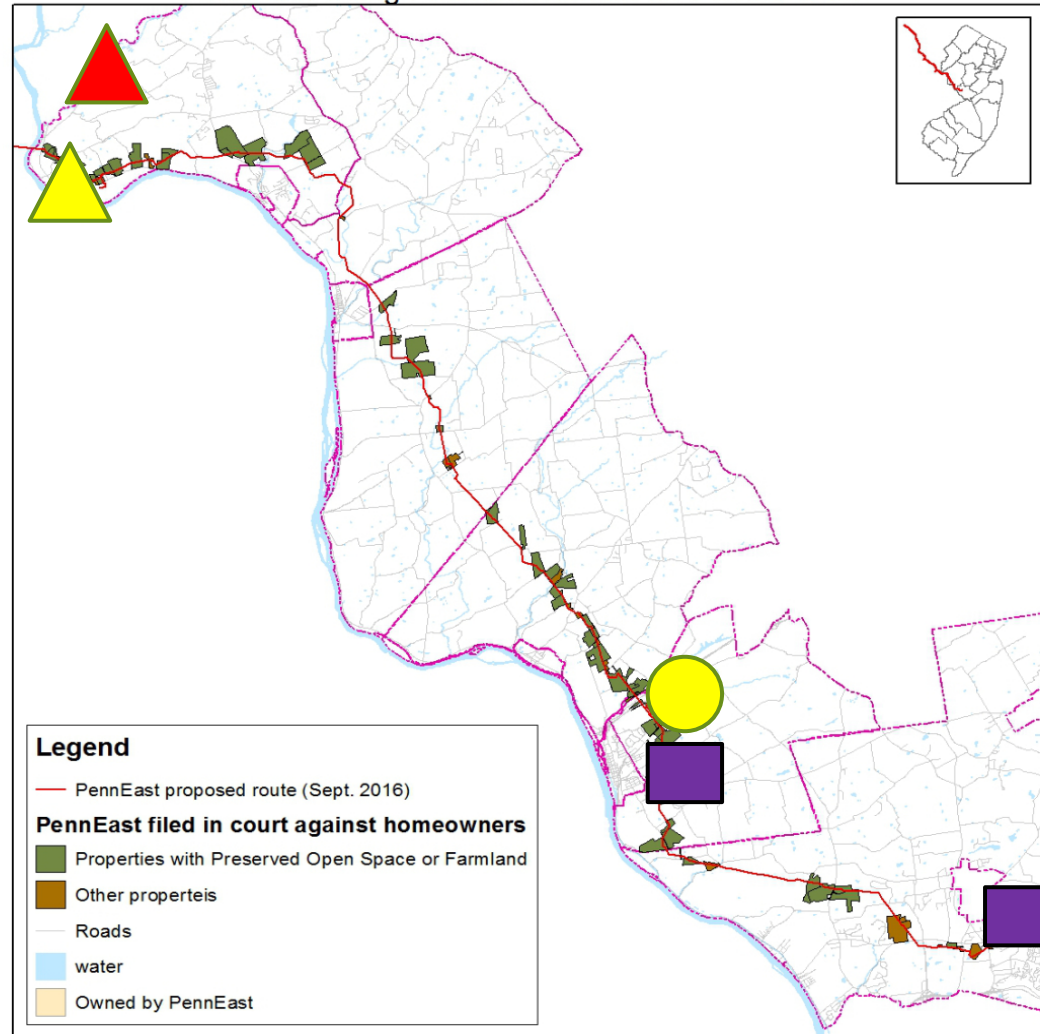
# Eminent Domain

- ▶ We are waiting for a Federal court decision on whether PennEast will be granted the use of eminent domain to gain access to properties to do survey work
- ▶ PennEast want to gain access on our land to get information so that they can apply for permits from government agencies.
- ▶ We expect the court to rule on eminent domain any day.
- ▶ Their granting of eminent domain will only allow them to do surveys to reapply for permits with the DEP.
  - ▶ *It is only eminent domain to get access on your land, it is not condemnation of your property!*
- ▶ Although this is a loss, we shouldn't be disheartened because this is just Round 3 of a 12-Round Fight!

# Standing Together to STOP PennEast

NJ Property Owners Standing Strong Against PennEast  
Despite Being Sued in Condemnation Court by  
PennEast Using Eminent Domain for Private Gain

-  Musconetcong Power Plant
-  NRG Milford Power Plant
-  Lambertville East Pipeline
-  Transco Substation



Data Sources: NJDEP, NJDOT and PennEast.  
Disclaimer required for NJDEP and Hunterdon County Data:  
This map was developed using NJDEP and Hunterdon County  
GIS digital data, but this secondary product has not been verified  
by NJDEP or Hunterdon County and is not NJDEP or county  
authorized.

Note: This is a rapidly changing  
issue and will be updated.

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2/9/2018

Map Credit: Debbie Kratzer,  
Environmental Commissioner,  
Kingwood



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# Next Strategies in our Battle Against PennEast!

- ▶ Urge Governor Murphy to get NJDEP to deny PennEast Permits. Murphy has the power to stop and permits. He must also put a moratorium on new natural gas infrastructure and gas powerplants
- ▶ Urge DEP to replace weakened rules such as Flood Hazard and Wetlands Rules that make it easier to build pipelines
- ▶ Continue to fight PennEast's permit applications at all agencies but especially at the DEP and especially the 401 Water Quality Certificate
- ▶ Petition the DRBC to throw out and deny all PennEast permit applications and proposed EIS



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## Governor Murphy's Role in Stopping PennEast

- ▶ Governor Murphy came out against PennEast and now he has to keep his word and reject this project from cutting through the Basin
- ▶ New Jersey is becoming overrun with natural gas infrastructure
- ▶ We are fighting 7 pipelines and 5 natural gas powerplants who greenhouse gas emission will block us from getting to 100% renewable energy by 2050
- ▶ Governor Murphy must direct the DEP to enact the strictest possible standards on Section 401 permitting for pipelines and conduct a cost-benefit analysis of moving New Jersey away from the PJM electricity grid, which relies too heavily on dirty fuels.
- ▶ Governor Murphy must put a moratorium on new fossil fuel infrastructure and new natural gas powerplants

# Department of Environmental Protection

- ▶ 401 water quality certificates
- ▶ Stream encroachment
  - ▶ crossings, buffers
- ▶ Wetlands
  - ▶ fill, crossing, and buffers
  - ▶ Section 202 CWA
- ▶ Section 303 Water permit
- ▶ Flood hazards
  - ▶ fill, buffers
- ▶ Stormwater
- ▶ CAFRA Coastal Program
- ▶ Coastal Zone Management Act
- ▶ Green Acres
- ▶ Statehouse Commission
- ▶ Watershed Moratorium Commission
- ▶ Water allocation
- ▶ NJPDES (water discharge)
- ▶ Threatened and Endangered Species
- ▶ SHPO (historic reviews)
- ▶ Replacement trees on public lands
- ▶ Other land use permits
- ▶ Air permits



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# 401 Water Certificate & Anti- Degradation of Streams

- ▶ PennEast applied **twice** and were rejected **twice** for their 401 Water Certificate and other water and wetlands permits.
- ▶ The DEP rejected PennEast Pipeline's application for water permits because they do not have enough information for them to evaluate land use permits and their application is deficient.
- ▶ Section 401 of the Clean Water Act requires that any person applying for a federal permit or license, which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions.
- ▶ FERC cannot grant final approve for PennEast Pipeline without a 401 certificate
- ▶ The 401 Water Certificate is the best tool to stop pipelines
  - ▶ It has been used to stop other pipelines such as the Islander East in Connecticut and the Constitution in New England.
- ▶ **Anti-Degradation of Streams**
  - ▶ The Clean Water Act's anti-degradation criteria protects high quality streams
  - ▶ Many of these streams would be impacted by PennEast Pipeline
  - ▶ The route will cut areas with steep slopes having a bigger impact on streams because of siltation and runoff
  - ▶ Sierra Club worked to upgrade 7 of 8 major streams in the are to category 1- highest level of protection that carries an anti degradation status
  - ▶ We believe it makes it much harder for PennEast to be approved to get a 401 certificate
- ▶ Since 65 percent of the route has yet to be surveyed, the DEP said they do not have enough information for any of these approvals.
- ▶ Governor Murphy has spoken out against the PennEast Pipeline and under his Administration, their application will be much more difficult to obtain approval.



# DEP's Proposed Flood Hazard Rules & Wetlands Rules

The Christie Administration proposed Flood Hazard Rules would weaken protections for waterways in NJ.

- ▶ The new rules would increase development near high-quality streams and other environmentally sensitive areas
- ▶ This would make it easier to put in pipelines because it provides general permits and permit-by-rules for drilling pipelines under streams.
- ▶ It also eliminated the SWRPA which protects environmentally sensitive areas from development.

The DEP's new Freshwater Wetlands Rules will destroy many weaken protections and make it easier to build pipelines by:

- ▶ allowing for permits to last for 10 years, which under the law should only be five years before renewal.
- ▶ allowing for utility crossing and maintenance
- ▶ changing the general permits in the Wetlands Rules to be consistent with the weaker, more damaging Flood Hazard Rule general permits.
- ▶ This includes GP2, which makes it easier to build pipelines through wetlands

**The DEP needs to keep to Murphy's commitments and repeal the Wetlands Rules and Flood Hazard Rules that make it easier for pipelines like PennEast to be built**



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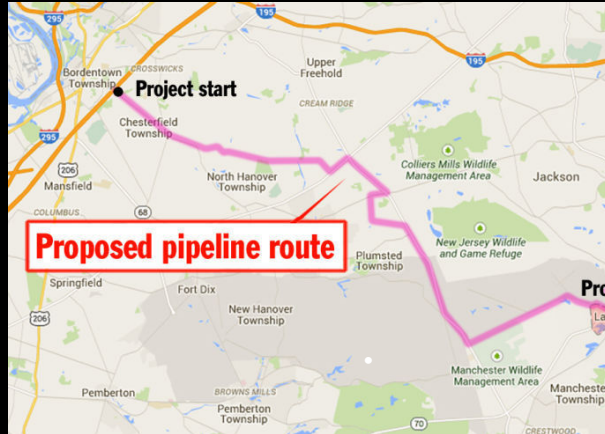
# Delaware River Basin Commission (DRBC)

- ▶ The DRBC is a five-state compact that controls the region within the river basin and manages water quality, withdrawals, droughts, floods, conservation and permitting for the river and its tributaries. They have the jurisdiction to deny this pipeline and FERC can not ignore them.
- ▶ They've called for separate EIS with multiple hearings, which have yet to be scheduled. They can deny this EIS, which we've asked them to do based on PennEast's lack of information.
- ▶ PennEast has applied for ~17 different permits including Surface Water Withdrawal and Discharge. The DRBC can also deny them these permits.

We need to be pressuring DRBC and member states to throw out PennEast's EIS and other permit applications.

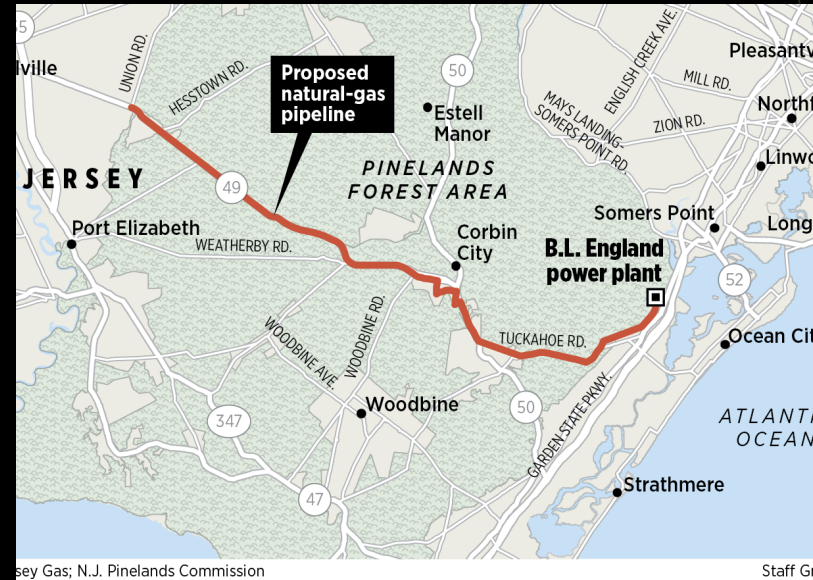


## New Jersey Natural Gas's Southern Reliability Link Pipeline



- ▶ New Jersey Natural Gas's SRL is a partner with PennEast. It is a 28-mile gas pipeline that will destroy environmentally sensitive land in the Pinelands and threaten communities along the route in Burlington, Ocean, and Monmouth Counties.
- ▶ The SC sued against the Pinelands Commission and won, then it was remanded back and we're suing again.
- ▶ The New Jersey Sierra Club is suing the Pinelands Commission on their approval of New Jersey Natural Gas's Southern Reliability Link pipeline in the Pinelands because one of the members who was a deciding vote may not have been a legal member of the commission.
- ▶ Transco's Northeast Supply Enhancement Project (NESE) includes a compressor station to be built in Trap Rock Quarry in Franklin Twp. The compressor station is meant to get gas from the proposed PennEast Pipeline and connect to the NJNG Southern Reliability Link Pipeline

## South Jersey Gas Pipeline



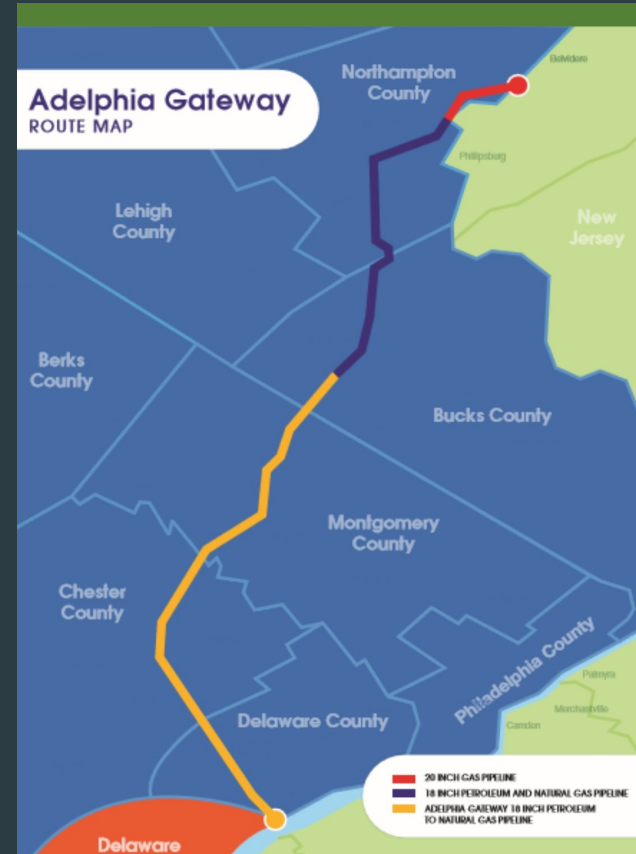
- Southern Jersey Gas a partner with Penneast, plans to install a brand new 22 inch gas pipeline through 22 miles of the Pinelands and Southern New Jersey.
- The SC sued against the pipeline, won, then the proposal was sent back to the Pinelands Commission who voted for it. Now we are challenging the Commission again.
- SC is challenging the approval of the Pipeline because one of the members who moved the vote may not have been a legal member of the commission.
- If we win both cases - there won't be any pipelines for PennEast to send gas to





# Adelphia Pipeline Applying to FERC

- ▶ The Adelphia Gateway Project, owned by New Jersey Resources (NJR)
  - ▶ Adelphia proposes to acquire and operate a natural gas pipeline system comprised of approximately 84 miles of 18-inch diameter pipeline and 4.5 miles of 20-inch diameter pipeline
  - ▶ Adelphia LLC. has applied an amendment with the Federal Energy Regulatory Commission (FERC) to increase the design capacity of their proposed project from 175,000 dekatherms to 250,000 dekatherms.
  - ▶ NJR wants to double the size of the Adelphia Pipeline to transport 500,000 dekatherms of natural gas per day. This makes it half the size of PennEast and could easily become expanded for more.
  - ▶ We are concerned that this could be come part of the PennEast project or it could become an alternate route for PennEast that could connect to the same pipelines and substations



## Lambertville East

- ▶ Will connect PennEast to Texas Eastern and the Transco compressor station so they can take PennEast gas through their system
- ▶ There is an interconnect through PSEG and Elizabethtown gas. Above Trenchtown, it will go to the Musconetcong Power Station.



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# Bottom Line

- ▶ FERC cannot approve the pipeline until state agencies like DRBC and DEP weigh in. Not only are there no applications yet in New Jersey, the DEP already rejected PennEast for being deficient. This means PennEast cannot get eminent domain or take people's properties until they get state and federal approvals. FERC may have approved the pipeline but there is a long way to go before it can be built and we can fight it at every step of the way.
- ▶ Federal Agencies still need to approve PennEast's permits: Army Corps of Engineers **has pending application for nationwide permit despite finding deficiencies**, Environmental Protection Agency and U.S Fish and Wildlife Service **found deficiency in the application**

# Sierra Club vs FERC and Duke Energy

- ▶ Sierra Club won in the U.S. Court of Appeals challenging FERC on the Southeast Market Pipeline (Sabal Trail pipeline) project.
- ▶ Environmental groups and landowners challenged the decision to approve the construction and operation of three new interstate natural-gas pipelines in the southeastern United States without doing a proper environmental analysis.
- ▶ The Court agreed that under the National Environmental Policy Act (NEPA) FERC's Environmental Impact Statement was inadequate because it did not contain enough information on the greenhouse-gas emissions
- ▶ The Court also said that giving out a Certificate of Public Convenience was wrong because the pipeline didn't have all of its permits in place.
- ▶ This decision sets an important precedent and has good implications for PennEast Pipeline because the Court said **FERC cannot give a Certificate of Public Convenience without all permits in place from state agencies.**



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# Musconetcong Natural Gas Power Plant

- ▶ The proposed Musconetcong Natural Gas Power Plant would be located in Holland Twp. at the Warren Glen paper mill site
  - ▶ The gas for the power plant would come through Elizabethtown and PennEast.
- ▶ The powerplant would threaten drinking water in the entire Delaware Watershed and pollute a Category 1 stream.
- ▶ The 25-acre site is of a former paper mill and plays an important role for trout production in the Highlands Preservation Area
- ▶ This plant would be a major source of air pollution and could generate almost 1.25 million metric tons of carbon dioxide a year.
- ▶ It would also be an excuse to build the devastating PennEast pipeline and other fossil fuel infrastructure.
- ▶ The New Jersey Department of Environmental Protection (DEP) has granted Phoenix Energy Center LLC approval for a redevelopment exemption from the Highlands Rules for their proposed 663 MW power plant.
- ▶ This project would still need multiple reviews and permits and approval by the Highlands Council, NJDEP, and Delaware River Basin Commission (DRBC).





# Natural Gas Power Plants in New Jersey (In Operation, Approved, Proposed)

1. PSEG's Bergen Generating Station: 2.6 million
2. Phillips 66 Bayway Refinery: 2.5 million
3. Quixx Power Services Inc: 2.3 million
4. Meadowlands Natural Gas Power Station: 2.3 million\*
5. Linden Generating Station: 2.28 million
6. Musconetcong Power Plant: 1.4 million\*
7. Keasbey- Woodbridge Power Plant: 1.3 million\*
8. Sewaren 7 Power Plant: 1.1 million\*\*
9. BL England Power Plant: 900,000\*\*

\*Proposed

\*\*Approved

New Jersey GHG Emission have increased in recent years by 3-5%

source: <https://www.mycentraljersey.com/story/news/local/land-environment/2016/10/11/study-finds-100-super-polluters-fouling-air-we-breathe/91908548/>

Source: <http://www.nj.gov/dep/dsr/trends/pdfs/ghg.pdf>



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# Governor Murphy's Role in Blocking Fossil Fuel Infrastructure & Power Plants

- ▶ **New Jersey has the authority to regulate greenhouse gases since 2005**
- ▶ NJ has the authority to do deny Title V permits for Natural Gas Power Plants
  - ▶ BPU has the authority to regulate GHG's and deny projects that increase GHG's
  - ▶ Global Warming Response Act calls for a 80% reduction in greenhouse gases from baseline year 2006 by 2050. We also have to meet 2020 goals
  - ▶ Under RGGI, NJ is supposed to be reducing CO2 emissions
    - ▶ RGGI calls for a Cap on 13 tons of CO2- NJ is currently at 18 and these new natural gas powerplants will put us at 23 tons: Musconetcong Power Plant: 1.4 million, Keasbey- Woodbridge Power Plant: 1.3 million Sewaren 7 Power Plant: 1.1 million, BL England Power Plant: 900,000 metric tons of CO2



# To Sum it Up

- ▶ Petition the DRBC to throw out and deny all PennEast permit applications and proposed EIS
- ▶ Urge NJ Legislature and Murphy Administration to replace weakened rules such as Flood Hazard and Wetlands Rules that make it easier to build pipelines
- ▶ Continue to fight PennEast's permit applications at all agencies but especially at the DEP and especially the 401 Water Quality Certificate
- ▶ Fight against the Adelfia Pipeline's application since it may be connected to PennEast
- ▶ Urge Governor Murphy for a moratorium on new natural gas powerplants and pipelines



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