

# Next Steps on Fighting the PennEast Pipeline

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# FERC Approves PennEast

- ▶ On January 19<sup>th</sup>, the Federal Energy Regulatory Commission (FERC) has issued a draft Certificate of Necessity and Convenience for the PennEast Pipeline.
- ▶ They gave out a draft certificate without state and federal permits or looking at climate impacts.
- ▶ The company has sent hundreds of letters to Hunterdon County homeowners suing them for eminent domain.
- ▶ The court cases start next month



**FERC**  
FEDERAL ENERGY REGULATORY COMMISSION

# What to Do Next to Stop PennEast

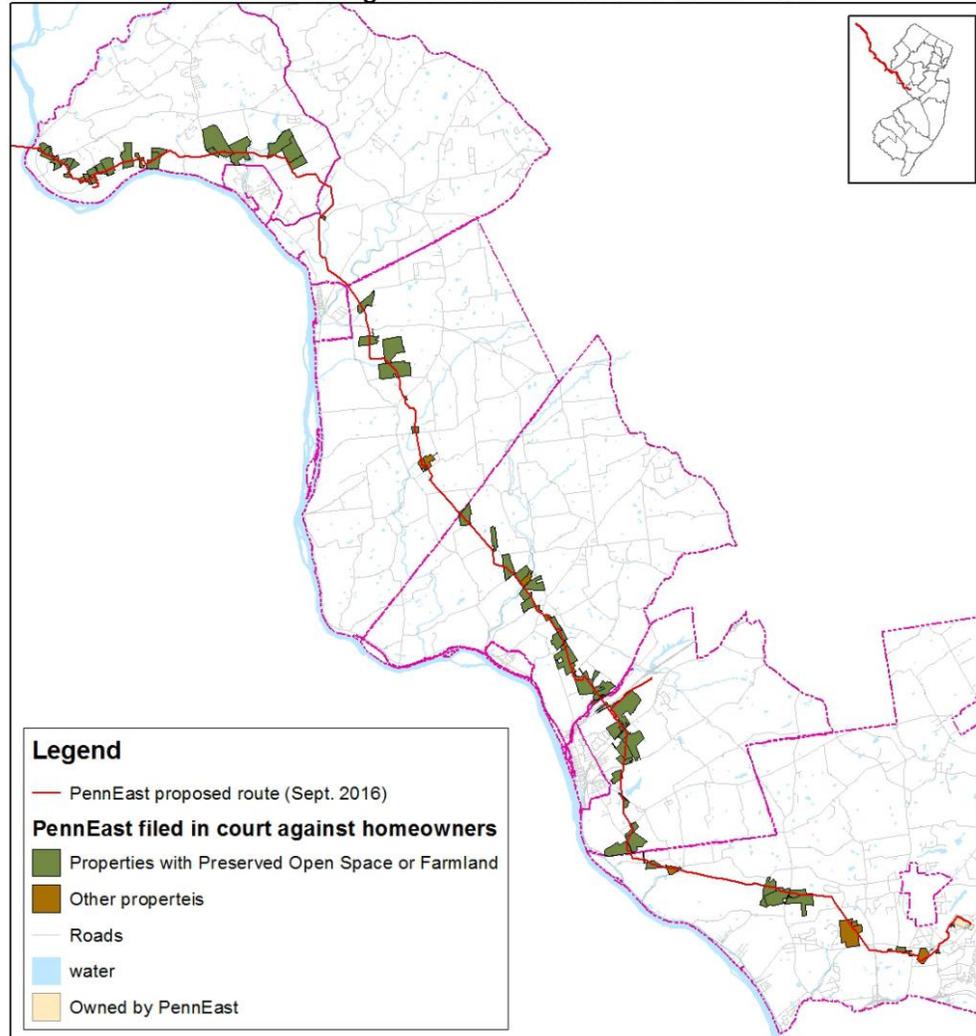
- ▶ Don't panic! This is only a draft certificate- it's not final!
  - Do not sign away your rights by signing an easement
  - PennEast still needs many other permits and approvals before they can build their pipeline!
- ▶ We can petition them for a motion to reconsider their approval
  - FERC's approval was expected and can be challenged
- ▶ **DO NOT LET PENNEAST ON YOUR PROPERTY!**
  - They DO NOT have the right to come on your land unless they go to court. Even if they do decide to go to court, it slows down the process, costs them money, and makes it more difficult.
- ▶ Anything we can do to slow the process helps us stop it.

# Eminent Domain

- ▶ The company has sent hundreds of letters to Hunterdon County homeowners suing them for eminent domain.
- ▶ If landowners sign the easement, they're giving their land rights to PennEast whether or not the pipeline gets built.
- ▶ **Taking PennEast to court is better than signing the easement!** You should get an attorney to protect your rights.
- ▶ Even if you go to court and lose, they will only be allowed to survey the property, rather than have more control as they would with an easement
- ▶ The state of NJ has sent them a rejection letter, refusing to let them build on state land and forcing them to go to court.
- ▶ The longer we can delay their efforts, the more time we have to stop this pipeline.

# 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



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.

0.5 1 Miles

2/9/2018

Map Credit: Debbie Kratzer,  
Environmental Commissioner,  
Kingwood

# 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.



# 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

# DEP's Proposed Flood Hazard 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.

# DEP's Wetlands Rules

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's Rollback Rules

- ▶ The new Flood Hazard and Wetlands Rules will allow for Horizontal Directional Drilling (HDD) in environmentally sensitive areas.
- ▶ HDD: a method of boring to install underground pipe beneath bodies of water, roads or other environmentally sensitive areas.
- ▶ The DEP determined that HDD does not have environmental impact.
- ▶ In actuality, HDD is dangerous and recently caused water contamination in Pennsylvania
- ▶ By making the drilling a general permit or permit-by-rule, they are claiming it has *de minimus* impact. This removes public comment or say in the process.
- ▶ They are also neglecting to look at cumulative impacts.

**We need Governor Murphy to repeal these rules to protect our environment and help prevent pipelines like PennEast.**

# 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.**

# Federal Agencies and Reviews

- ▶ Army Corps of Engineers has pending application for nationwide permit despite finding deficiencies
  - ▶ PennEast Pipeline is still not in compliance with requirements
- ▶ Environmental Protection Agency found deficiency in the application
  - ▶ concerned because PennEast is still missing a significant amount of information
- ▶ US Fish and Wildlife Service found deficiency in the application
  - ▶ raised many serious concerns about the impact of this project not only on species, but the environment as a whole.
- ▶ PennEast must also prove that their application is consistent with the Coastal Zone Management Act

# Other Federal Agencies and Reviews

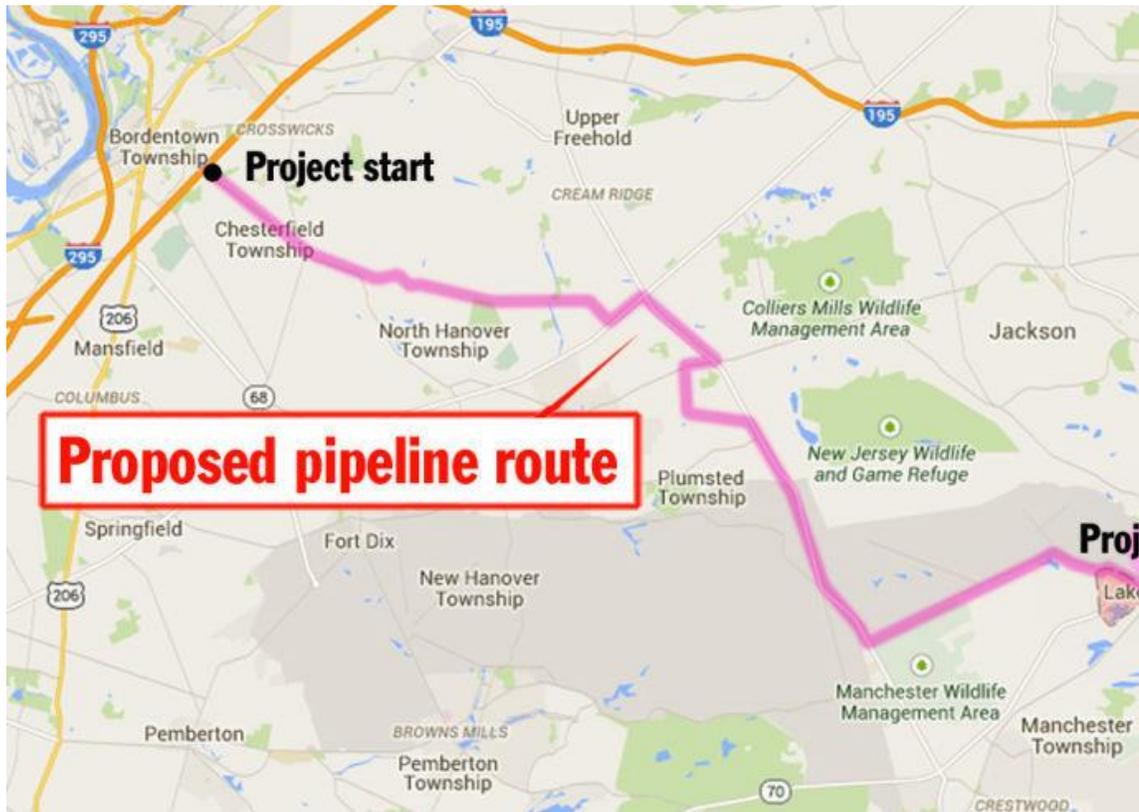
- ▶ Department of the Interior
  - ▶ 319 review if it impacts any historic structure or district on National Registrar of Historic Places
  - ▶ Federally preserved lands like National Parks, National Wildlife Refuges, preserved lands, etc.
  - ▶ Any New Jersey Green Acres lands purchased with federal Land and Water Conservation Funds need to be signed off on



# Sierra Club vs FERC and Duke Energy

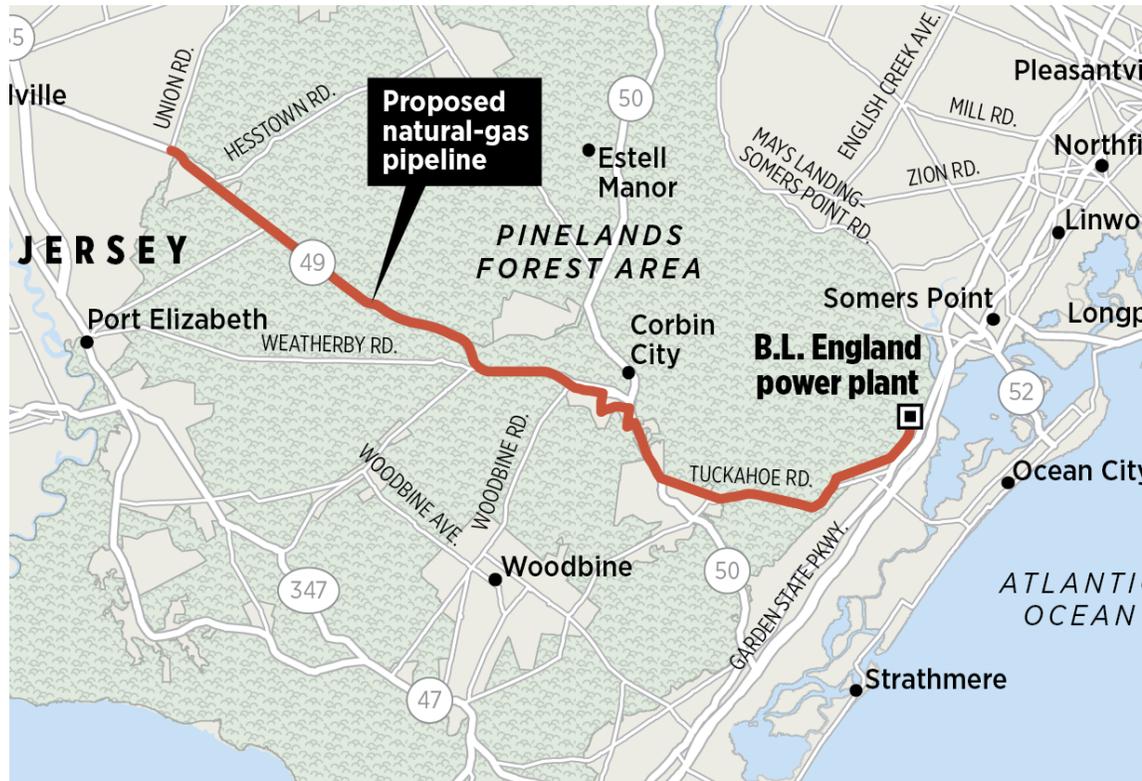
- ▶ Sierra Club won in the U.S. Court of Appeals challenging FERC on the Southeast Market Pipeline (Sabal Trail pipeline) project.
- ▶ Environmental groups and landowners challenged the decision to approve the construction and operation of three new interstate natural-gas pipelines in the southeastern 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.**

# 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.

# South Jersey Gas Pipeline



sey Gas; N.J. Pinelands Commission

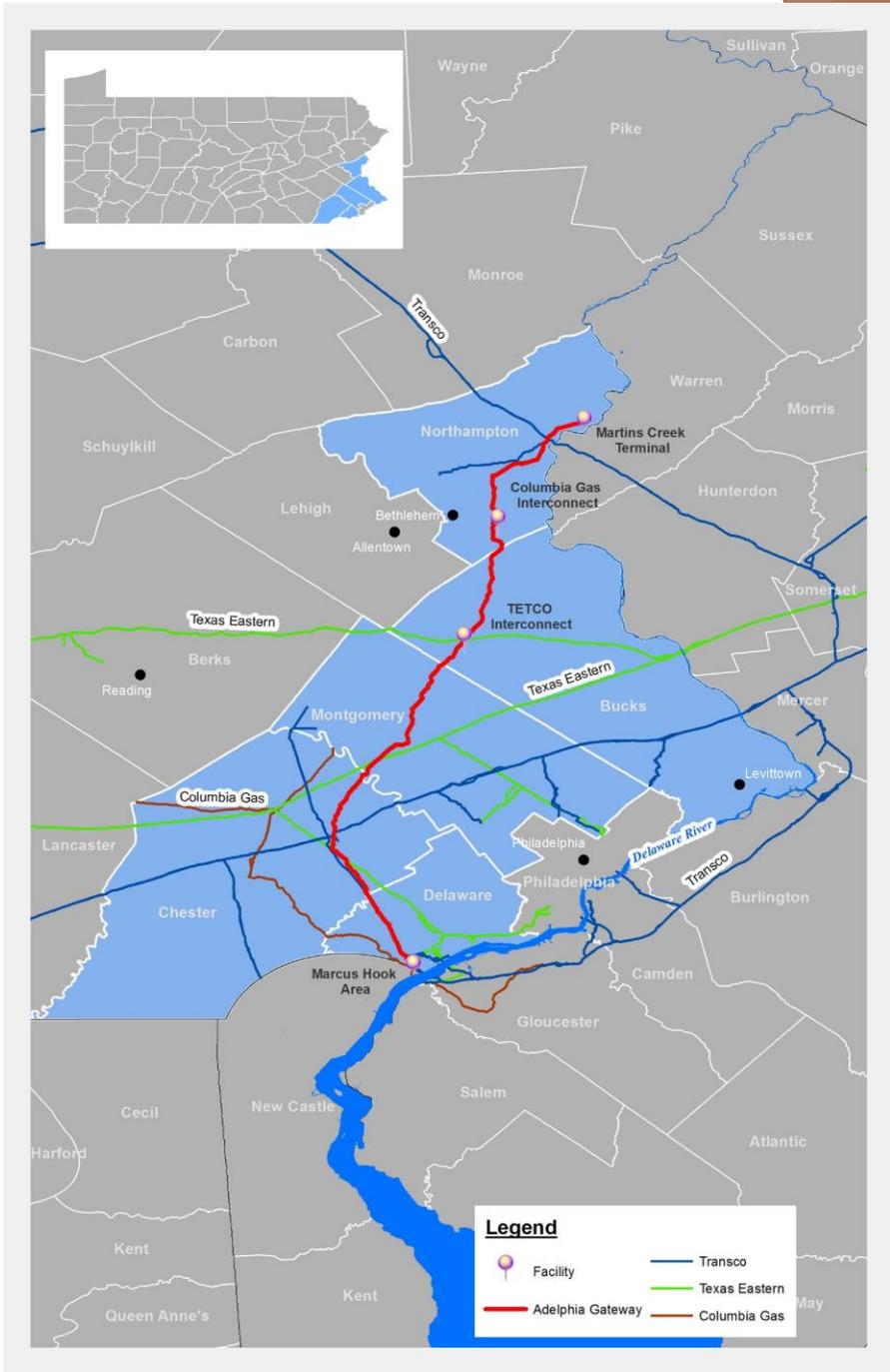
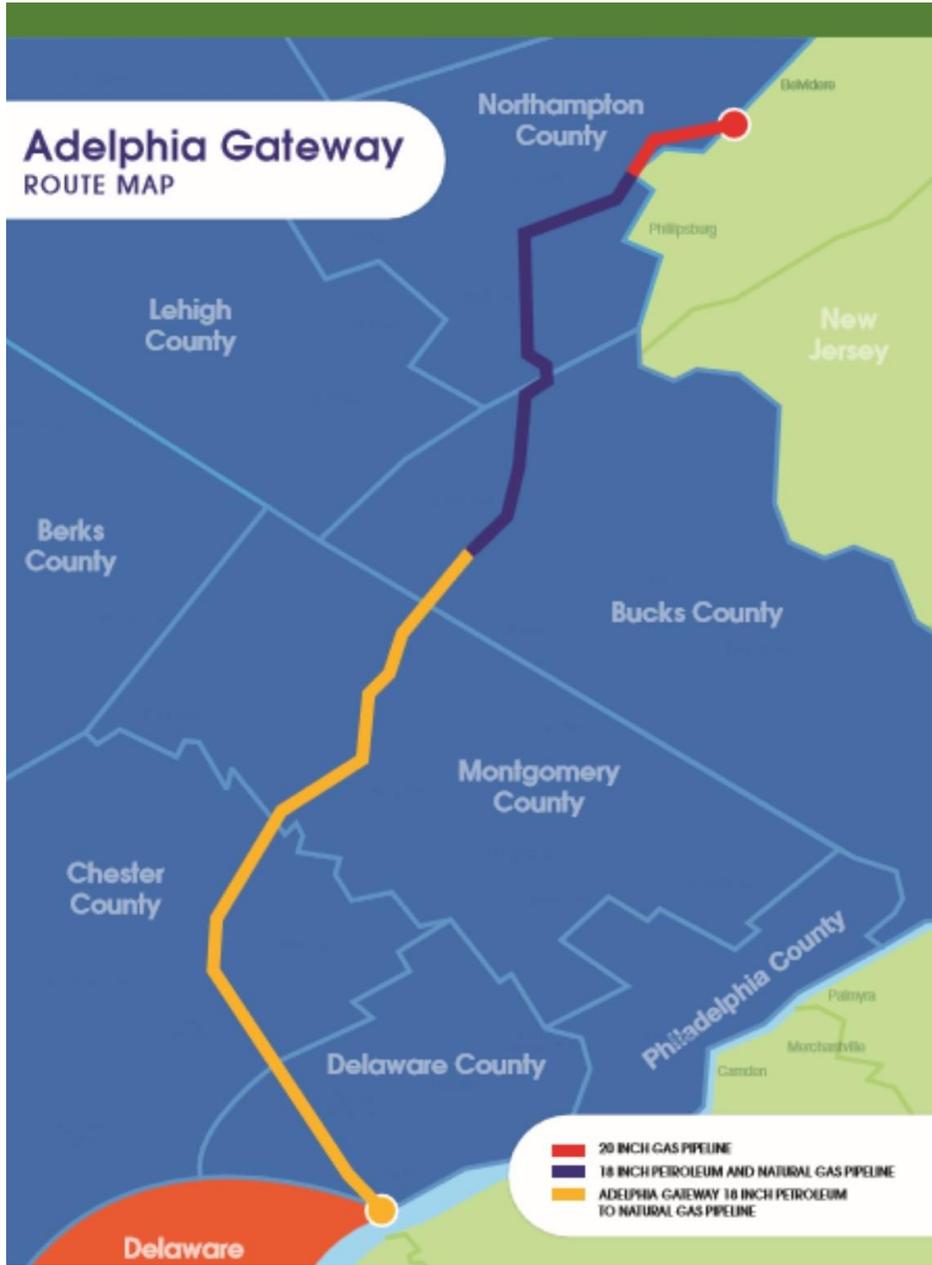
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- ▶ Southern Jersey Gas a partner with Penneast, plans to install a brand new 22 inch gas pipeline through 22 miles of the Pinelands and Southern New Jersey.
- ▶ The SC sued against the pipeline, won, then the proposal was sent back to the Pinelands 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)
  - ▶ Period of intervention for the pipeline
  - ▶ 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
  - ▶ NJR bought the oil pipeline for \$156 million with intentions to repurpose it as a natural gas pipeline and extend it down to Philadelphia
  - ▶ 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 become part of the PennEast project or it could become an alternate route for PennEast that could connect to the same pipelines and substations

# Adelphia Gateway ROUTE MAP



## Bottom Line

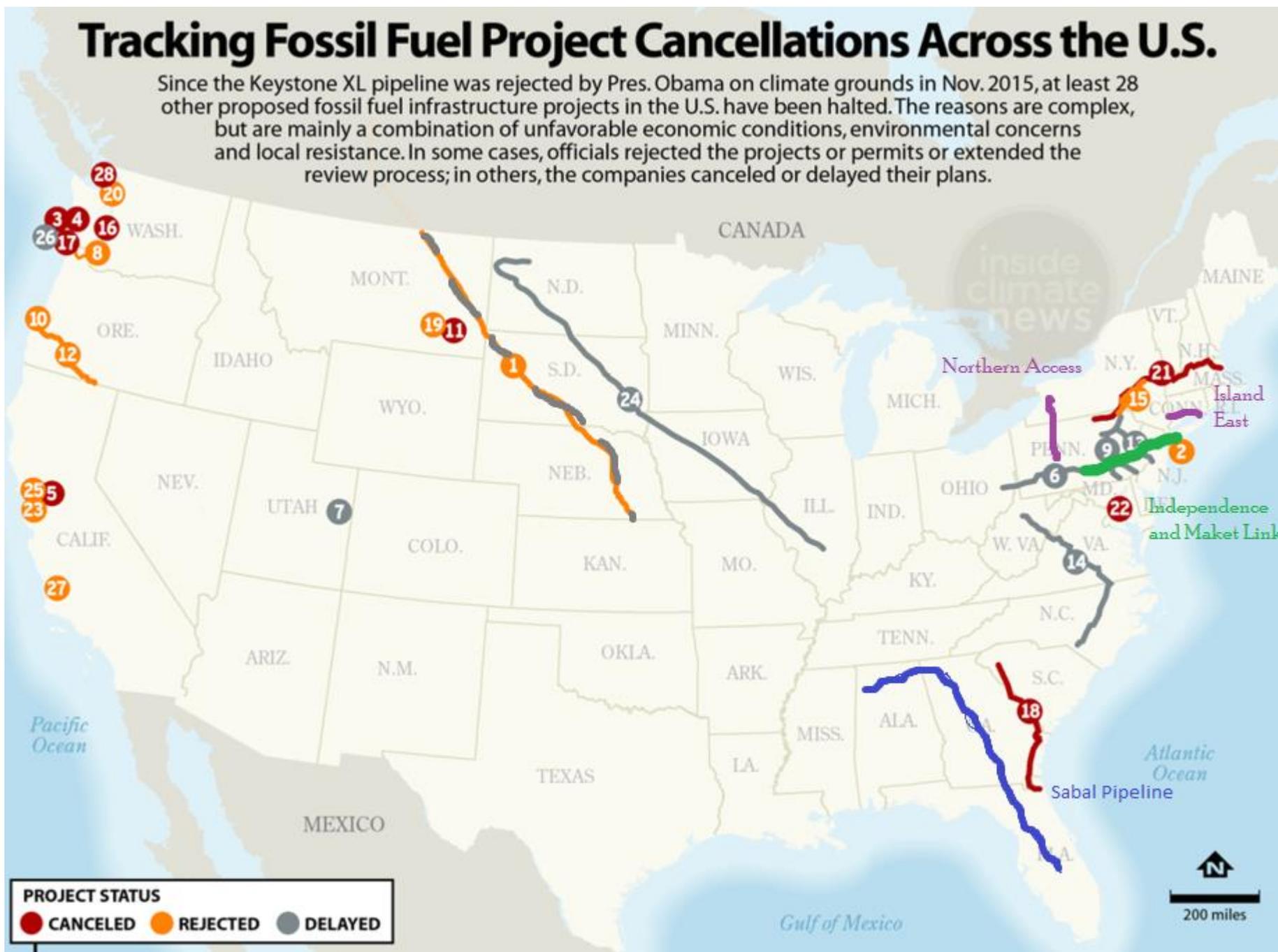
FERC cannot approve the pipeline until state agencies like DRBC and DEP weigh in. Not only are there no applications yet in New Jersey, the DEP already rejected PennEast for being deficient. This means PennEast cannot get eminent domain or take people's properties until they get state and federal approvals, which they may never get. 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.

# To Sum it Up

- ▶ Continue to DENY PennEast access to your property and educate your neighbors to do the same
- ▶ Petition the DRBC to throw out and deny all PennEast permit applications and proposed EIS
- ▶ Continue to fight PennEast's permit applications at all agencies but especially at the DEP and especially the 401 Water Quality Certificate
- ▶ Urge NJ Legislature and Murphy Administration to replace weakened rules such as Flood Hazard and Wetlands Rules that make it easier to build pipelines
- ▶ Fight against the Adelphia Pipeline's application since it may be connected to PennEast

# Tracking Fossil Fuel Project Cancellations Across the U.S.

Since the Keystone XL pipeline was rejected by Pres. Obama on climate grounds in Nov. 2015, at least 28 other proposed fossil fuel infrastructure projects in the U.S. have been halted. The reasons are complex, but are mainly a combination of unfavorable economic conditions, environmental concerns and local resistance. In some cases, officials rejected the projects or permits or extended the review process; in others, the companies canceled or delayed their plans.



# Progress Against Pipelines

- ▶ The Sierra Club is involved in more than a hundred pipeline fights across the country
- ▶ Despite these being major battles, we have made progress:
  - ▶ Constitution, Island East and Northern Access Pipelines were killed when denied water permits by their states.
    - ▶ The Constitution denial was just upheld in federal court.
  - ▶ Northeast Energy Direct withdrew their application due to public outcry
  - ▶ Stopped LNG ports: Port Ambrose, Exxon and BP Greenwich Twp. in New Jersey
  - ▶ We got FERC to deny the Jordan Cove LNG and Pacific Connector Pipeline
  - ▶ New Jersey has stopped the Independence and Market Link Pipeline
  - ▶ In Georgia, SC helped pass legislation stopping oil pipelines from getting eminent domain
  - ▶ Along with the Delaware Riverkeeper Network, we won an important lawsuit against FERC's attempts to segment the Tennessee Gas Pipeline
- ▶ Currently we are filing with Nebraska Public Utilities Commission to stop Keystone and we are also in court against DAPL

# Keeping the Fight Alive

- ▶ The key to fighting this pipeline is to **stay focused on the areas that will work** to stop it.
- ▶ We can't be diverted by putting effort into fighting things that don't actually slow down or stop a pipeline.
- ▶ We should be focusing on the 401 permits, DRBC, challenging FERC in federal court and other efforts that can work.
- ▶ Together we can stop PennEast!





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