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Appeals Court Sends South Jersey Gas Pipeline Back to the Pinelands Commission Affirms Essential Role of the Pinelands Commission Struggle Over Pipeline Continues

The Appellate Division of the Superior Court today agreed with Pinelands advocates that the Pinelands Commission and Board of Public Utilities had improperly approved the controversial South Jersey Gas pipeline without a review and approval by the full membership of the Pinelands Commission. The court ruled that the Board of Public Utilities improperly relied on the opinion of the Pinelands Commission's executive director, who had no authority to approve the development under the Pinelands Protection Act and Comprehensive Management Plan (CMP).

The appeals were filed by the Pinelands Preservation Alliance, Sierra Club New Jersey Chapter, and Environment New Jersey. In addition, former governors Brendan T. Byrne, James Florio and Christine Todd Whitman joined the case as friends of the court in support of the environmental advocate's position, because the case raised a fundamental challenge to the integrity and authority of the Pinelands Commission.

"This decision sets a fundamental precedent that the Pinelands Commission must review developments in the Pinelands and find compliance with Pinelands protection rules before those developments can go forward. The Commission cannot delegate that core responsibility to its staff or to other agencies like the Board of Public Utilities," stated **Carleton Montgomery, executive director of the Pinelands Preservation Alliance**.

"South Jersey Gas, the governor, and the executive director of the Pinelands Commission tried to do an end run around the members of the Pinelands Commission after the Commissioners voted not to approve the pipeline in January 2014. The court has decisively rejected that kind of politically-driven shenanigans," said **Doug O'Malley, director of Environment New Jersey**.

"In a major victory, the Court has upheld the integrity of the Pinelands Act and the environment against the abuse of power and arrogance by the Christie Administration. The South Jersey Gas pipeline is so damaging and unnecessary that even three former Governors filed litigation against the Standing Governor. This shows how bad the Christie Administration has been when it comes to protecting the environment, but the Court has stood up to them and defended the Pinelands," said **Jeff Tittel, Director of the New Jersey Sierra Club**. "The South Jersey Gas pipeline would cut an ugly scar through the Pinelands, threaten the U.N. biosphere reserve, and put 17 trillion gallons of drinking water at risk. This is the biggest Court decision in protecting the Pinelands since the Pinelands Act was passed 40 years ago. Even though this is an important win, we may have another battle against the pipeline ahead of us. That is why we will continue to fight for the next 40 years to save the Pinelands all over again."

The court did not rule on the merits of whether the South Jersey Gas pipeline violates the Pinelands CMP because it runs through the protected Forest Area of the Pinelands. In January 2014, the Pinelands Commission’s executive director had formally determined, and the full Commission had accepted, that the pipeline violates the CMP’s protections for the Forest Area. At that time, the Commission voted not to grant South Jersey Gas a waiver from that violation, so the pipeline could not be built along the Forest Area route. In 2015, South Jersey Gas came back to the Pinelands Commission and the BPU to get approval for exactly the same route, but using a procedural gambit to avoid a Pinelands Commission vote – and that is the gambit the appeals court has now rejected as unlawful.

“Now all those who care about the Pinelands must fight the battle once again – the same battle we won nearly three years ago. And the Pinelands Commission must once again decide whether to enforce its rules and tell South Jersey Gas to use a different route that complies with those rules if it still wants to build this pipeline,” said **Carleton Montgomery**.

“This pipeline not only violates Pinelands protections, but is unnecessary and foolish on many grounds. Under New Jersey law, natural gas utilities make profits by building pipelines, whether needed or not. The new pipeline would allow South Jersey Gas to charge ratepayers for most of its cost, even though all its ratepayers are already served by existing system. In addition, the pipeline would bring gas to an old electric power plant that sits on the edge of Great Egg Harbor Bay, where it will soon be under water from sea level rise and increased flooding. That power plant is not needed for the grid, which has added enormous additional generating capacity in the last few years, and uses a cooling system that kills literally billions of fish and other living things in Great Bay every year,” said **Jeff Tittel**.

Pinelands Preservation Alliance

www.pinelandsalliance.org

Sierra Club of New Jersey

www.newjersey.sierraclub.org

Environment New Jersey

www.environmentnewjersey.org