

Burlington County Times

Judge: Conflict lawsuit against Burlington County can move forward

By David Levinsky

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MOUNT HOLLY — An environmental group's lawsuit challenging the Burlington County Board of Freeholders approval of future road closures for construction of a natural gas pipeline can move forward, a Superior Court judge ruled Monday.

In a mixed decision, Burlington County Assignment Judge Ronald Bookbinder dismissed two parts of the Pinelands Preservation Alliance's lawsuit but decided that the case could still proceed with some discovery related to the question of whether two of the freeholders who voted were in conflict because they are employed by a building trades union that advocated for the planned New Jersey Natural Gas pipeline.

The alliance wants the freeholders' Dec. 12 resolution authorizing the closure of two county highways for pipeline construction declared "null and void" because of the two votes in question.

The freeholder board was under Republican control at the time, and the GOP majority of Freeholders Kate Gibbs, Latham Tiver and Linda Hughes carried the 3-2 vote over Democrats Tom Pullion and Balvir Singh.

Gibbs and Tiver are alleged to have been in conflict because of their connections to the International Union of Operating Engineers Local 825.

Gibbs, who is no longer a freeholder, is director of business development for the Engineers Labor-Employer Cooperative 825, which helps find work for members of IOUE Local 825. Tiver, who is the lone Republican now on the board, is a business representative for the union. Both were named as co-defendants in the lawsuit, which also alleged Tiver and Gibbs violated the New Jersey Civil Rights Act and that their decision was unjust and arbitrary.

The latter two allegations were dismissed by Bookbinder, but he ruled that the question of whether Tiver or Gibbs were conflicted could move forward. He did not decide the case, but his ruling allows the alliance to request some discovery related to whether the trade union benefited from the freeholders' votes.

“The court finds Pinelands’ sufficiently alleges a basis for a potential conflict of interest regarding Freeholders Gibbs and Tiver to survive the motion to dismiss at this stage ... This matter must involve a factual analysis. Facts are only obtained through discovery,” Bookbinder wrote.

The lawsuit is the latest in a flurry of litigation surrounding New Jersey Natural Gas’ controversial pipeline project, known as the Southern Reliability Link.

The planned 30-mile transmission line is slated to begin at a recently built compressor station on the Chesterfield-Bordentown Township border and run west along County Routes 528 and 664 through Chesterfield, North Hanover, Joint Base McGuire-Dix-Lakehurst and several towns in Monmouth and Ocean counties.

The route also crosses part of the protected Pinelands, an environmentally sensitive region that is subject to stricter rules for development and land use in order to protect its natural habitat, wildlife and pristine drinking water supplies.

The alliance, as well as the New Jersey Sierra Club and towns of Chesterfield and Bordentown Township, already have contested approvals granted for the project by the New Jersey Board of Public Utilities and the New Jersey Pinelands Commission, which oversees development and land use in the Pines.

New Jersey Natural Gas also filed its own lawsuit against Burlington County in 2016, arguing that the government's road policy for utility work along or beneath county highways was unreasonable and written solely to impede the pipeline.

The county defended its permit policy, and Bookbinder declined to invalidate it. But the county was instructed by the judge to work with the company to make some changes to accommodate the controversial project, which New Jersey Natural Gas maintains is critical for enhancing reliability of gas delivery to over a million people, mostly in Ocean and Monmouth counties, because it will provide a second transmission feed to its territory.

Work has started on the pipeline in Ocean County but has yet to proceed in Burlington County because the county engineer has not issued a permit to allow the company to build the pipeline in the right of way along and beneath the two highways.

Allowing the road closures was seen as a precursor for issuing that permit. The county engineer has also said allowing the closures would speed construction and reduce the impact on traffic through the area and work hours.