

July 18, 2019

Members of the Board of Chosen Freeholders  
Burlington County  
49 Rancocas Road, Room 123  
Mount Holly, NJ 08060

**Re: Road Permits and the Southern Reliability Link Pipeline**

Dear Freeholders,

We are writing to call on you to ensure that (a) no road permit is issued without a vote of the Freeholders, and (b) you deny any permit for construction of the Southern Reliability Link pipeline along the proposed County highway route as placing residents at unnecessary risk.

The Resolution adopted last December by the outgoing Freeholder Board to give the County Engineer authority to issue a road permit for the pipeline was patently illegal because two Freeholders had a clear conflict of interest. Pinelands Preservation Alliance sued to invalidate that Resolution. *Last month, Judge Bookbinder denied the County's unfounded motion to dismiss PPA's suit and set a schedule for discovery in that matter. Until that discovery is completed, we will not have a complete picture of how the conflicted Freeholders came to participate in a matter so deeply entwined with their employer. In any case, the current Board and the County Engineer cannot rely upon or respect that Resolution.*

Without the December 2018 Resolution, no permit for the pipeline can be issued without approval by a vote of the Freeholders. It has been suggested that using alternating lanes does not constitute a sufficient closure of the County highway as to require a vote of the Freeholders. This is false. First, use of alternating lanes still requires a road occupancy permit, and the Freeholders clearly have authority to grant or deny such a permit. The Freeholders' authority and responsibility to manage the use of County highways cannot be avoided by such a technical distinction given the magnitude and impacts of such a large and risky development within the County right of way. Second, the County Engineer has already gone on record stating that an alternating lane procedure is, in his professional opinion, unsafe for the public. Finally, installation of the pipeline as proposed also requires an easement to set the terms for construction, maintenance and liabilities for the pipeline. The granting of such a property right, in addition to and independent of the County's permit authority, requires a vote of the Freeholders.

**It is vital that the Board expressly assert its authority to decide whether road permits of any nature will be granted for the pipeline.** We look to the Board and the Engineer to resist any pressure being placed on you to give in to such manipulation of the Board's authority. If the

Board acts to withdraw the December 2018 resolution, it must also state its continued demand that any road permits for SRL be presented to the Board for decision.

It has also been suggested that the County cannot reject the use of the County highway for this kind of development because the Board of Public Utilities approved the pipeline under its statutory authority. In fact, there is no basis for this negation of County authority. If the Freeholders conclude that the proposed route is unsafe and unnecessary, it is entirely within the Board's authority to reject a permit and easement for this pipeline.

State law gives the Freeholder Board authority to create and manage county highways. N.J.S.A. 27:16-1, -6 & -8; N.J.S.A. 40:20-1. There is no provision of any statute, nor any ruling by the courts or the Board of Public Utilities, removing or limiting that authority in the case of a BPU-approved pipeline. In fact, the Board of Public Utilities itself recognized the County authority in its order approving the SRL pipeline, stating that the BPU approval is "subject to ... the approval of road opening permits from the affected counties," among other conditions.<sup>1</sup>

The County has exercised its authority over county roads by adopting the Policy, Procedures and Specifications Manual for Road Occupancy, Road Opening, Etc., dated November 2015. Section 4.5. states that "[T]he County Engineer and/or the Board of Chosen Freeholders, at their discretion, may deny an application for a permit ... in the interest of public safety." It is within the Board's powers and responsibilities to exercise this power and, in this case, to deny a permit for the proposed SRL alignment in light of the safety issues which the County Engineer, independent experts, and members of the Board have repeatedly raised.

Sincerely,

Carleton Montgomery, Executive Director  
**Pinelands Preservation Alliance**  
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Southampton, NJ 08088  
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<sup>1</sup> Decision and Order In the Matter of the Petition of New Jersey Natural Gas for Approval and Authorization To Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4, Docket No. GE15040402 page 10; *See also* Decision and Order In the Matter of the Petition of New Jersey Natural Gas for Approval and Authorization To Construct and Operate the Southern Reliability Link Pursuant N.J.S.A. 40:55D-19 and N.J.S.A. 48:9-24.4. Thus, the BPU recognized that road permits are distinct from and are not covered by the Municipal Land Use Law's waiving of municipal land use reviews under N.J.S.A. 40:55D-19 – a provision that is simply irrelevant to the county's authority in this case.

Tammi Bernardi-Bathke, Co-Chair  
 Susan Lavine Coleman, Co-Chair  
**Action Together Burlington County**

Andrea D'Ovidio, Environmental Policy  
 Director  
**Action Together New Jersey**

Christine Luland, Co-Chair  
 Devon Mazza, Co-Chair  
 John Shaw, Co-Chair  
**Action Together Ocean County**

Georgina Shanley, Co-Founder  
**Citizens United for Renewable Energy  
 (CURE)**  
**Don't Gas the Pinelands Coalition**

Doug O'Malley, Director  
**Environment New Jersey**

Jocelyn Sawyer, South Jersey Organizer  
**Food and Water Watch**

The Rev. Fletcher Harper, Executive Director  
**GreenFaith**

Rev. Sara Lilja, Director  
**Lutheran Episcopal Advocacy Ministry of  
 New Jersey**

Tom Gilbert, Campaign Director for Energy,  
 Climate & Natural Resources  
**New Jersey Conservation Foundation**

Ed Potosnak, Executive Director  
**New Jersey League of Conservation Voters**

Jeff Tittle, Director  
**New Jersey Sierra Club**

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 Brendan O'Donnell, Deputy Mayor  
 Lou DeLorenzo, Committeeman  
 Christopher Doyle, Committeeman  
 John Kocubinski, Committeeman  
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