



## Board of County Commissioners

County of Hunterdon  
71 Main Street, Building #1  
PO Box 2900  
Flemington, NJ 08822-2900

## MEDIA RELEASE

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### FOR IMMEDIATE RELEASE

DATE: June 30, 2021

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## Hunterdon Commissioners Call For Penn East Eminent Domain Fight To Continue In Congress

Hunterdon County's Board of Commissioners Director and Deputy Director, following the U.S. Supreme Court ruling in favor of the PennEast pipeline's taking of taxpayer preserved land, will propose a resolution at the July 6<sup>th</sup> Board meeting calling on New Jersey's U.S. Senators and Congressman Malinowski to move forward pending legislation that amends existing law allowing private companies to use eminent domain to take state land.

Hunterdon County Board of Commissioners Director Susan J. Soloway stated, "The Supreme Court, in their 5-4 decision, supported by the Biden Administration, hung their hat on the 1938 Natural Gas Act. It is time to change the law. We will be proposing a resolution on July 6<sup>th</sup> asking our federal representatives to act on pending legislation amending the 1938 Act."

The U.S. Supreme Court by a 5 – 4 vote, determined that under the 1938 law, condemnation actions do not violate state sovereignty, because the States consented to the exercise of the federal eminent domain power when they ratified the U.S. Constitution. New Jersey ratified the U.S. Constitution on December 18, 1787.

The Biden Administration's acting Solicitor General submitted briefs for and argued on behalf of the pipeline.

Soloway, who earlier in the year called on the Biden Administration to reverse course in its support of PennEast, said, "Hunterdon County has over 2000 acres of farmland and conservation easements for which state and county taxpayers have paid millions of dollars to preserve."

The Board's Deputy Director, John E. Lanza, stated, "As disappointing as the ruling by the Supreme Court is, what is more troubling is the fact that the Biden Administration's Justice Department sided with PennEast's efforts to seize state-owned lands without the state's consent, while the same Administration blocked the Keystone XL Pipeline in the west and midwest. One has to wonder what is behind that inconsistency."

Lanza added, "According to New Jersey Conservation Foundation, PennEast still faces numerous legal and regulatory hurdles. The company's Federal Energy Regulatory Commission (FERC) certificate for the project is being appealed by the Conservation Foundation and other parties.

The project must also still receive approvals from the U.S. Army Corp of Engineers, the Delaware River Basin Commission and the NJ Department of Environmental Protection. So, all hope is not lost."



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Earlier this year and in previous years, the Hunterdon County Commissioners and formerly Freeholders approved resolutions opposing the Penn East project noting, ‘the Penn East project unnecessarily threatens property rights and offers no prospect of just compensation for the land it targets for lease or condemnation, proposes to pay owners the one-time loss of value attributed to the new encumbrance on property, and understates the value of the easement to Penn East.’

According to media accounts, there was an unusual coalition of Justices on both sides of the issue. Chief Justice John Roberts wrote the majority opinion, joined by Justices Stephen Breyer, Samuel Alito, Sonia Sotomayor, and Brett Kavanaugh. Supporting New Jersey’s claim were Justices Clarence Thomas, Elena Kagan, Neil Gorsuch and Amy Coney Barrett.