Message

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Bloomberg Law: Court's Ruling Against Trump Elevates Debate on Climate Metric

A federal district judge's decision striking down the Trump administration's rollback of methane emissions standards could fuel other litigation over an obscure tool used to study the impacts of climate change. California Judge Yvonne Gonzalez Rogers last week rebuked the Bureau of Land Management for eliminating Obama-era restrictions on releases of the potent greenhouse gas from oil and gas infrastructure on public and tribal lands. Her opinion included a detailed assault on how the land agency used a metric called the social cost of methane, calling the approach "riddled with flaws."

E&E News PM: EPA: Ozone plan for Northeast 'impossible' by next summer

EPA is still haggling with a group of Northeastern states over how quickly it must come up with a fix for a key ozone compliance policy. It will be "impossible" to issue a final rule fully addressing upwind emissions of ozone-forming pollutants by next summer's ozone season, the agency said in a letter filed yesterday with the U.S. District Court for the Southern District of New York. But New Jersey, four other states and New York City, which are facing a July 2021 deadline for a new round of attainment designations for EPA's 2008 ground-level ozone standard, say they're statutorily entitled to help by then. All six plaintiffs are having trouble meeting the 75-parts-per-billion standard; they blame emissions from coal-fired power plants and other industrial sources outside their boundaries and accuse EPA of foot-dragging in requiring Pennsylvania and other upwind states to meet "good neighbor" obligations.

NASA: NASA Helps Puerto Rico Prepare for Saharan Dust Impacts

Puerto Rico now has an air quality warning system that provides three days of advance notice about potentially harmful dust that travels across the Atlantic Ocean from the Sahara Desert. NASA Earth-observing satellite data have shown that dust can ride air currents for 6,000 miles or more, affecting air quality that can be hazardous to human health. The project is led by NASA-funded researcher Pablo Méndez-Lázaro. "Being able to see this dust before it arrives is a critical tool for public health," said Méndez-Lázaro, an associate professor at the University of Puerto Rico Medical Sciences Campus in San Juan. "We alerted federal and state agencies as well as medical doctors, which gave them time to alert the public and vulnerable populations like people with asthma. Before, decision-makers lacked the specific information to help the public protect themselves in advance."

Newsday: State to procure 2,500 more megawatts of offshore wind power

New York State this year will seek bids for another 2,500 megawatts of offshore wind power, along with 1,500 megawatts of land-based renewable energy projects in what the state is calling the country's largest clean-energy solicitation of its kind. The new plans for wind, solar and other green energy projects follow last year's

awarding of nearly 1,700 megawatts of offshore wind to two developers, Equinor of Norway and Orsted of Denmark — part of the state's march toward some 9,000 megawatts of offshore wind for the New York grid by 2035. LIPA has contracted for another 130 megawatts. The combined 4,000 megawatts of new green energy, if built, will be enough to power some 1.5 million homes, the state said.

NJ Spotlight: Bill Advances to Help Lower-Income Communities in NJ Block Projects that Could Increase Pollution

Despite pushback from the business community, an Assembly committee cleared a bill Monday that would give minority and low-income communities more leverage in blocking new projects that could increase pollution burdens in areas already suffering from adverse environmental impacts. The legislation (S-232), part of a two-bill package aimed at addressing environmental-justice issues impacting communities across New Jersey, is viewed by advocates as the most significant step ever taken to address unhealthy levels of pollution affecting many poor and urban communities in the state. The bill, approved by the Assembly Environment and Solid Waste Committee, would require state environmental officials to consider the cumulative impacts of locating new power plants or major new manufacturing facilities where residents already suffer from pollution from incinerators, hazardous waste sites, or waste transfer stations.

NJ Spotlight: New Jersey Joins Battle with Trump Administration Over Mercury Emissions

New Jersey has joined 18 other states in suing the federal Environmental Protection Agency over weakening a rule designed to limit mercury and other wind-blown pollutants emitted by power plants fueled with oil and coal. The lawsuit, filed in the U.S. Court of Appeals circuit in the District of Columbia, seeks to overturn the agency's decision, which found it "not appropriate" or "necessary'' to regulate the emission of mercury and other toxic compounds from power plants, a reversal of a stance taken by the administration of President Barack Obama. In adopting the rule in 2012, the Obama administration said the benefits of reducing mercury and other air pollutants would save consumers $90 billion, but President Donald Trump's team concluded the rules would save only between $4 million and $6 million.

NJ.com: After drilling mishap condemns home, gas pipeline opponents ask to halt all work

Opponents of a 30-mile natural gas pipeline being laid in Monmouth, Ocean and Burlington counties have asked a court to halt all work on the project, after one of several horizontal drilling accidents along its route damaged a house and prompted state regulators to freeze the drilling permits. A coalition of environmental groups and two municipalities along the route of the New Jersey Natural Gas pipeline through the state's environmentally sensitive Pinelands region are suing to kill the project in a case now pending before the Appellate Division of state Superior Court. In filing the motion for a stay — an order by the appellate court temporarily halting the work — the coalition last Friday cited a July 8 decision by the state Department of Environmental Protection to suspend more than 50 permits it had issued the gas company to conduct horizontal directional drilling, or HDD, below surface wetlands along the route of the pipeline, known as the Southern Reliability Link.

NJ.com: Feds hatch plan to clean Superfund site on Passaic River

The banks of the Passaic River are set to become a little cleaner. On Wednesday, the U.S. Environmental Protection Agency announced a plan to clean-up the Riverside Industrial Park Superfund site in Newark. The site, a nearly 8-acre chunk of land wedged between Route 21 and the Passaic River in the city's North Ward, has an industrial history dating back nearly 120 years. For much of that history, the site was owned by PPG Industries, Inc. and the company's predecessors. The property was used to manufacture things like paint, varnish and resins -- work that left the area polluted with a range of contaminants from lead to harmful substances like volatile organic compounds (VOCs) and polychlorinated biphenyls (PCBs).

NNY360: EPA facilitated settlement for Grasse River

In your July 16 article, "Arconic will provide $2.25 million towards mussel restoration on Grasse River," you note that New York state asked for specific habitat reconstruction requirements in the U.S. Environmental Protection Agency's cleanup. The story includes a quote from the state Department of Environmental Conservation that would lead people to believe that EPA stands in opposition to the habitat reconstruction project. The EPA takes exception to being portrayed as a roadblock to protecting natural resources in a situation where the opposite is true. The truth is that the EPA got the ball rolling on an agreement between Arconic and the DEC by approaching the company and writing to the DEC to suggest it pursue a separate agreement outside the purview of Superfund.

Bloomberg Law
https://news.bloombergiaw.com/environment-and-energy/courts-ruling-against-trump-elevates-debate-on-climate-metric

Court's Ruling Against Trump Elevates Debate on Climate Metric

By Ellen M. Gilmer
July 20, 2020

A federal district judge's decision striking down the Trump administration's rollback of methane emissions standards could fuel other litigation over an obscure tool used to study the impacts of climate change.

California Judge Yvonne Gonzalez Rogers last week rebuked the Bureau of Land Management for eliminating Obama-era restrictions on releases of the potent greenhouse gas from oil and gas infrastructure on public and tribal lands.

Her opinion included a detailed assault on how the land agency used a metric called the social cost of methane, calling the approach "riddled with flaws."

Industry advocates say the judge improperly substituted her own judgment instead of deferring to the agency. But legal scholars expect litigants to use the decision to push for enhanced climate analysis in other federal decisions.

"This decision will certainly be important as we work through litigation in other contexts," said Hana Vizcarra, a staff attorney at Harvard Law School's Environmental and Energy Law Program.

Global vs. Domestic Costs

The social cost of methane and its cousin, the social cost of carbon, assign a dollar amount to the on-the-ground impacts of greenhouse gas emissions. Obama administration officials in 2016 used the metric, recommended by an interagency working group of experts, to conclude that the benefits of slashing methane emissions outweighed the costs.

But upon taking office, President Donald Trump issued an executive order adopting a new approach for calculating the cost of greenhouse gas emissions. The Bureau of Land Management scaled back the methane rule, relying in part on the new climate metric that drastically changed the cost-benefit analysis.

The new version narrowed the projection of the costs of climate change by looking only at domestic impacts, not global impacts.

Gonzalez Rogers rejected the narrower metric, noting that "focusing solely on domestic effects has been soundly rejected by economists as improper and unsupported by science."

Holland & Hart LLP partner Kelly Johnson said the ruling shows that "just because something's withdrawn, doesn't mean it's not the best science anymore."

According to a recent Government Accountability Office report, the Trump administration's estimate of the social cost of greenhouse gases is seven times lower than what the Obama administration used, thanks to the domestic-only approach and the incorporation of different discount rates.

Critics of the domestic-only analysis say it ignores how the U.S. and the rest of the world are interconnected, including through trade, geopolitical security, Americans living abroad, and U.S. business interests around the world.

Proponents of narrowing the calculation say the approach properly focuses an agency's analysis on impacts on U.S. soil, rather than making American government and industry shoulder full accountability for a global issue.

"The court envisions a domestic solution to a global problem," said King & Spalding LLP partner Marcella Burke, an Interior Department official during the Trump administration.

The Bureau of Land Management and oil and gas advocates said they disagree with the court's ruling. Western Energy Alliance President Kathleen Sgamma said "this is an example where the judge is substituting her judgment for that of the agency's on a very technical issue that typically receives the greatest level of deference from the courts."

Powerful Warning

But the decision serves as a powerful warning to other agencies seeking to justify rollbacks by using a domestic-only metric to study the social costs of greenhouse gases, said Jason A. Schwartz, legal director for New York University's Institute for Policy Integrity. The group filed an amicus brief supporting challenges to the Trump administration's methane rollback.

"No administration can change what the best science or the best economics is by fiat," he said, paraphrasing the opinion. "You can't cherry-pick which aspects of a model or which recommendations from a scientific body or literature you want, and then ignore the rest."

Similar debates over the social cost of greenhouse gases—or about proper cost-benefit analysis more generally—are cropping up in litigation over the Trump administration's decisions to undercut Obama-era targets for vehicle emissions, and constrain how the Environmental Protection Agency weighs the collateral benefits of air pollution rules.

"It doesn't bode well for some of their other rulemakings," Vizcarra said of the Trump administration.

District court decisions don't create binding precedent for other courts, but they can be persuasive.

Implications for Other Cases

What's less clear, Vizcarra said, is whether the ruling will help climate advocates force agencies to use the social cost of carbon in the first place. The California court's frustrations stemmed from the fact that the Obama administration used one approach, and the Trump administration used a very different one without adequate justification, she said.

Johnson, the Holland & Hart lawyer, said the social cost of carbon is more appropriate for broad rulemakings, rather than individual project approvals.

And Baker & Hostetler LLP attorney Mark S. Barron pointed to district court decisions that have rejected environmentalists' push for the Bureau of Land Management to use the climate metric in oil and gas leasing decisions.

A federal district court, for example, last year rejected arguments that the agency should have conducted a cost-benefit analysis, including using the social cost of carbon, before approving oil and gas development in Colorado's North Fork Valley.

Environmental groups have also repeatedly demanded that the Federal Energy Regulatory Commission use the metric when analyzing the impacts of natural gas pipelines. Federal judges so far haven't required FERC to use it, but they have ordered the agency to better explain its decision not to.

But Schwartz said the language in this week's methane decision is still useful in cases pushing for that analysis. The opinion says the National Environmental Policy Act requires agencies to explain the significance of emissions, rather than simply tallying greenhouse gases, he said.

"An agency can't ignore a scientifically robust tool to assess actual environmental impacts when that tool exists," he said.

E&E News PM
https://www.eenews.net/eenewspm/2020/07/21/stories/1063604923?utm_medium=email&utm_source=eenews%3Aeenewspm&utm_campaign=edition%2BiZ%2B%2FftFV%2B2LxUfHtN5bxJQ%3D%3D

EPA: Ozone plan for Northeast 'impossible' by next summer

By Sean Reilly
July 21, 2020

EPA is still haggling with a group of Northeastern states over how quickly it must come up with a fix for a key ozone compliance policy.

It will be "impossible" to issue a final rule fully addressing upwind emissions of ozone-forming pollutants by next summer's ozone season, the agency said in a letter filed yesterday with the U.S. District Court for the Southern District of New York.

But New Jersey, four other states and New York City, which are facing a July 2021 deadline for a new round of attainment designations for EPA's 2008 ground-level ozone standard, say they're statutorily entitled to help by then.

All six plaintiffs are having trouble meeting the 75-parts-per-billion standard; they blame emissions from coal-fired power plants and other industrial sources outside their boundaries and accuse EPA of foot-dragging in requiring Pennsylvania and other upwind states to meet "good neighbor" obligations.

In a separate filing with the court last month, acting EPA air chief Anne Idsal proposed a two-stage schedule to address those obligations that would end wrap up only in 2022. While acknowledging that EPA is willing to negotiate changes to Idsal's timetable, New Jersey and the other plaintiffs said that it does not address their concerns or comply with the Clean Air Act, "particularly because it will not provide" the required relief before the upcoming summertime ozone season, according to their portion of yesterday's joint letter. U.S. District Judge John Koeltl had requested the letter to outline the potential for a settlement, the filing indicates.

Ozone, the main ingredient in smog, is a lung irritant that can help trigger asthma attacks in children, among other health effects. It's formed by the reaction of nitrogen oxides and volatile organic compounds in sunlight; both are closely tied to the burning or production of fossil fuels. Under the Clean Air Act, states are supposed to limit power plant emissions and other releases of ozone-forming pollutants that make it harder for their downwind neighbors to comply with national air quality standards.

For New Jersey and the other plaintiffs, the issue is becoming more pressing because their respective nonattainment rankings could be downgraded after next July, meaning they would have to take fresh steps to curb ozone formation within their borders.

Under the Trump administration, EPA leaned heavily on a 2016 set of Obama-era regulations known as the Cross-State Air Pollution Rule update to address ozone-forming emissions that waft across state lines. Last October, however, the U.S. Court of Appeals for the District of Columbia Circuit threw out that approach because it did not require enough emissions reductions by next summer's deadline (*Greenwire*, Oct. 2, 2019).

New Jersey and the five other plaintiffs then filed a fresh suit in February with the U.S. District Court to force EPA to come up with a remedy (*E&E News PM*, Feb. 20). Besides New Jersey and New York City, the other plaintiffs are Connecticut, Delaware, Massachusetts and New York state.

NASA
https://www.nasa.gov/feature/nasa-helps-puerto-rico-prepare-for-saharan-dust-impacts

NASA Helps Puerto Rico Prepare for Saharan Dust Impacts

July 20, 2020

Puerto Rico now has an air quality warning system that provides three days of advance notice about potentially harmful dust that travels across the Atlantic Ocean from the Sahara Desert.

NASA Earth-observing satellite data have shown that dust can ride air currents for 6,000 miles or more, affecting air quality that can be hazardous to human health. The project is led by NASA-funded researcher Pablo Méndez-Lázaro.

"Being able to see this dust before it arrives is a critical tool for public health," said Méndez-Lázaro, an associate professor at the University of Puerto Rico Medical Sciences Campus in San Juan. “We alerted federal and state agencies as well as medical doctors, which gave them time to alert the public and vulnerable populations like people with asthma. Before, decision-makers lacked the specific information to help the public protect themselves in advance."

Dust often travels across the Atlantic and is a natural fertilizer for plants and coral, but the dust, especially in large quantities, causes poor visibility and air quality. It affects human health by causing irritation of eyes, nose and throat and it often contains fine particulates of silica and other minerals that are of a size that can easily infiltrate and irritate lung tissue.

"Vulnerable populations like children, the elderly and people with asthma or other pre-existing health conditions can be adversely affected," Méndez-Lázaro said. "So, getting three additional days of warning can give people time to prepare."

Méndez-Lázaro's air quality monitoring system was in place just in time for the historically large cloud of Saharan dust reaching Puerto Rico in June. "We saw the dust cloud forming and crossing the Atlantic almost a week before it arrived in Puerto Rico," Méndez-Lázaro said.

His team swung into action, contacting federal and state health agencies like the Puerto Rico Department of Health, the National Weather Service-San Juan Office and the Department of Natural Resources-Office of Air Quality.

As a result, the Office of Public Health Preparedness and Response (OPHPR) and the Emergency Management Office in Puerto Rico issued a press release with suggestions and recommendations to protect public health. In addition, during the dust event OPHPR helped keep the public informed through their Facebook page, while Méndez-Lázaro's team also provided updates through the University of Puerto Rico’s Facebook pages.

The team reached out directly to the medical doctors already collaborating with their research team to raise awareness of the upcoming hazardous conditions, allowing them to alert their at-risk patients. "Having those three days allowed people to prepare to take steps like staying indoors or taking needed medication,” Méndez-Lázaro said. In turn, the doctors informed Méndez-Lázaro's team about the health coverage they delivered during the event, helping the NASA team understand how patients responded to these warnings.

The team also did a Facebook Live broadcast with local meteorologist Ada Monzón that reached 374,000 people, and a Facebook Live broadcast with National Weather Service - San Juan Office. The broadcasts explained the hazardous conditions while providing preparedness measures and recommendations.

In setting up the air quality system, Méndez-Lázaro’s team installed on-the-ground air monitors as well as analyzed data from Earth-observing satellites. As Saharan dust travels across the Atlantic, it reflects visible and infrared light, which is detected by the National Oceanic and Atmospheric Administration (NOAA) GOES-16 (EAST) satellite; the Moderate Resolution Imaging Spectroradiometers (MODIS) on NASA's Terra and Aqua satellites; and the Visible Infrared Imaging Radiometer Suite (VIIRS) on the joint NASA/NOAA Suomi NPP satellite.

While satellites collect data from orbit, Olga Mayol-Bracero and others on Méndez-Lázaro's team also took samples from the ground-based air monitors. Using a technique called light scattering to assess the dust samples, they could discern if the particles were from Saharan dust or local pollution sources. By confirming the origin of the dust samples on the ground, the team was able to confirm predictions they had made based on satellite data about when the dust would make landfall. Ensuring the team's predictions were correct resulted in public officials in Puerto Rico having reliable information three days before the arrival of potentially hazardous Saharan dust.

Achieving these three days of lead time took Méndez-Lázaro's team three years of overcoming one unusual obstacle after another, from a hurricane to an earthquake to a global pandemic.

The 2020 Saharan dust storm was just the most recent event affecting the project and local residents of the island. In January 2020, a significant earthquake interrupted communications in Puerto Rico. Then, the spread of coronavirus (COVID-19) around the world led to travel restrictions, preventing the team from installing a round of instruments for air quality monitoring in the city of San Juan.

Even before those challenges, the team had to overcome significant adversity to get the system up and running. Three years ago, in summer 2017, Méndez-Lázaro's team was just preparing to present to NASA this applied research idea of tracking the movement of dust from the Sahara Desert across the ocean. Then one of the most powerful storms to hit Puerto Rico arrived; Hurricane Maria, the first Category 4 cyclone to hit the island since 1932.

Because Méndez-Lázaro's team is part of a medical college, they helped with hurricane response efforts – including providing supplies, medical assistance and educational material on environmental health and hygiene issues like water, air and food quality. "Working on a medical science campus, we have access to physicians and medicine. We were able to form a public health brigade five to six days after the hurricane – even outside the scope of our project – to visit communities unable to get access to medical services."

In the wake of the hurricane's devastation, citizens and businesses began using portable electric generators which affected air quality in a way that public health officials were not expecting. This was a turning point for the NASA project, giving Méndez-Lázaro's team the idea to incorporate this growing source of pollution in their research proposal. They worked through power, internet and phone outages to prepare a new proposal for the NASA Earth Applied Sciences Program – and it was accepted.

Since then, Méndez-Lázaro has worked with patients, doctors and decision-makers to understand the information that local communities need to make decisions on air quality management. He discovered that many residents were not aware that dust was a threat to their health – and realized that education efforts would be critical for the success of this early warning system.

"We can send out a warning, but it's no good if people aren't listening." said Méndez-Lázaro. "Our challenge is also to help people understand why this matters and what their options are to protect themselves. This is especially important to the most vulnerable – kids, the elderly and patients with preexisting conditions are most susceptible to African dust."

As they prepared focus group discussions with doctors and residents, a political crisis in summer 2019 led to the resignation of the governor of Puerto Rico. This event interrupted funding at the public university, but the team was able to restore access to lab equipment and finished collecting feedback on the types of educational outreach and warnings that would best help the community.

"After all these obstacles, we visited Puerto Rico and expected their activities to have come to a standstill," said John Haynes, head of NASA's Health and Air Quality program area. "Instead, we saw several hundred partners, researchers and community practitioners who were excited to contribute to this project and continue advancing the study of air quality for public health."

Despite all the challenges, Méndez-Lázaro sees the opportunity to make things better for the future. "Sometimes, it's overwhelming when you try to get your head above water and these things push you back

down," he said. "But I've also seen them as opportunities to get stronger for Puerto Rico. A lot of learning experiences where, if we are smart enough to make it through, we can be better prepared for the future."

Now, the team is focusing on next steps, including continuing their collaboration with researchers Dan Otis, Digna Rueda and Frank Muller-Karger from the University of South Florida in Tampa, who were instrumental in incorporating NASA satellite data from the VIIRS instrument. They also are strengthening their outreach for physicians, decision-makers and the general public including printed brochures, infographics and working with Ecoexploratorio the Museum of Science in Puerto Rico.

Newsday
https://www.newsday.com/business/offshore-wind-lipa-nyserda-1.47154506

State to procure 2,500 more megawatts of offshore wind power

By Mark Harrington
July 22, 2020 (updated)

New York State this year will seek bids for another 2,500 megawatts of offshore wind power, along with 1,500 megawatts of land-based renewable energy projects in what the state is calling the country's largest clean-energy solicitation of its kind.

The new plans for wind, solar and other green energy projects follow last year's awarding of nearly 1,700 megawatts of offshore wind to two developers, Equinor of Norway and Orsted of Denmark — part of the state's march toward some 9,000 megawatts of offshore wind for the New York grid by 2035. LIPA has contracted for another 130 megawatts.

The combined 4,000 megawatts of new green energy, if built, will be enough to power some 1.5 million homes, the state said. The plan includes $400 million in public and private investments for 11 state-selected port facilities to make or stage key wind-farm components, or operate the facilities once completed, said the New York State Energy Research and Development Authority, which is overseeing the bids. The New York Power Authority will also administer bids for around half the land-based projects.

Gov. Andrew M. Cuomo, who announced the first two winning bids last year at a press conference with environmental activist and former Vice President Al Gore, noted this year's more aggressive move into green energy comes "during one of the most challenging years New York has ever faced" following COVID lockdowns. But the move will not only address climate change but "bring significant economic benefits and jobs to the state," he said in a statement.

Doreen Harris, acting president and chief executive of NYSERDA, said in an interview Tuesday the state expects a "robust" response to the solicitation, given the high interest in New York's bidding process last year and improvements in capital costs that could bring costs and project pricing down further.

"If anything we would expect more robust competition this time around," she said. "That's why we're excited to be back on the street in 2020" seeking bids.

The state's move comes as the Trump Administration, which must approve leases which are primarily in federal waters, has slowed the process of approving new offshore wind projects by requiring further review for impacts on commercial fishing and shipping, while delaying lease auctions for new offshore wind areas, including off the Long Island coast.

"We have been extremely clear and have been for two years, as to the need for additional lease areas to sustain our [9,000 megawatt] goal," said Harris. "We very much intend and expect to continue to push" the federal government to open new lease areas "either under the current or a future administration."

The move also comes as LIPA, which already has a contract for an offshore wind farm to power the South Fork, is moving to reduce its reliance on antiquated fossil-fuel plants, and shift to green energy. Its contract for three large and numerous smaller National Grid-owned power plants expires in 2027.

Former LIPA chief Kevin Law, now president and chief executive of the Long Island Association business group, said the state's latest procurement "should keep our region as the center for offshore wind development and renewable energy jobs for the foreseeable future."

NJ Spotlight
https://www.njspotlight.com/2020/07/bill-advances-to-help-lower-income-communities-in-nj-block-projects-that-could-increase-pollution/

Bill Advances to Help Lower-Income Communities in NJ Block Projects that Could Increase Pollution

Measure easily passes Assembly committee. Business interests warn of negative economic consequences

By Tom Johnson

July 21, 2020

Despite pushback from the business community, an Assembly committee cleared a bill Monday that would give minority and low-income communities more leverage in blocking new projects that could increase pollution burdens in areas already suffering from adverse environmental impacts.

The legislation (S-232), part of a two-bill package aimed at addressing environmental-justice issues impacting communities across New Jersey, is viewed by advocates as the most significant step ever taken to address unhealthy levels of pollution affecting many poor and urban communities in the state.

The bill, approved by the Assembly Environment and Solid Waste Committee, would require state environmental officials to consider the cumulative impacts of locating new power plants or major new manufacturing facilities where residents already suffer from pollution from incinerators, hazardous waste sites, or waste transfer stations.

"We need protections,'' said Marie Lopez-Nuñez, deputy director of the Ironbound Community Corporation in Newark, referring to a neighborhood with three power plans, a garbage incinerator, a massive sewage treatment plant, and a number of hazardous waste sites.

The legislation ''can stop a racist legacy of placing all the bad things in places where people of color live,'' she said. "This bill is going to give us hope.''

But opponents of the bill argued the measure is so expansive — affecting portions of more than 310 communities — that it could stifle economic growth in many of the same urban communities desperate for job opportunities for their residents. The result could be uncertainty that will delay many major infrastructure projects, according to construction and trade representatives.

"There is a large impact that everyone needs to understand by the implications of this bill,'' said Dennis Hart, executive director of the Chemistry Industry Council of New Jersey, seeking to delay the bill. "Otherwise, we will regret it.''

Ray Cantor, a vice president of the New Jersey Business & Industry Association, argued the bill, as drafted, will not do much to address the problems it aims to address, but will drive manufacturing out of the state. His concerns centered on the 237 facilities with air permits that would come up for renewal under the program.

The case for, the case against

"What we fear, on renewal (of those permits), the facility will be told to cut back hours, cut back operations and cut back emissions,'' he said.

Others argued the problems associated with environmental-justice communities will not be ended with this bill — even if it is enacted. Paul Gilman, a senior vice president of Covanta, a company that operates garbage incinerators in Newark and Camden, said those facilities reflect only a small portion of the pollution burden in those communities.

"The problems won't end with this first great step,'' Gilman said.

Others thought differently. Nicky Sheats of the Environmental Justice Alliance argued the recent past has underscored how low-income communities are particularly affected by environmental-justice issues, citing the

lead poisoning in Flint, Michigan of drinking water supplies and the recent coronavirus pandemic, where populations of color were more heavily impacted.

"How many times do we have to hear that lesson before we finally act?'' Sheats asked.

The bill has powerful advocates pressing for its passage, including Gov. Phil Murphy, who endorsed the legislation last month, a position he rarely takes before a bill winds up on his desk..

On Monday, the Assembly committee began with U.S. Sen. Cory Booker saying why he is backing the bill in a Zoom session from a car, parked off the New Jersey Turnpike, on his way back to Washington D.C. The bill before the Legislature incorporates aspects of legislation Booker is sponsoring in Congress.

Meanwhile, without a lot less controversy, the Senate Environment and Energy Committee approved a bill, sponsored by Sen. Troy Singleton (D-Burlington), that would establish an Office of Clean Energy Equity in the New Jersey Board of Public Utilities. Among other things, that bill would target at least $50 million a year from the state's clean-energy program to fund projects in so-called overburdened communities.

NJ Spotlight
https://www.njspotlight.com/2020/07/new-jersey-joins-battle-with-trump-administration-over-mercury-emissions/

New Jersey Joins Battle with Trump Administration Over Mercury Emissions

NJ is one of 19 states challenging EPA over reversal of Obama-era finding that the benefits of removing toxic pollutants from wind-blown emissions outweigh the cost

By Tom Johnson
July 22, 2020

New Jersey has joined 18 other states in suing the federal Environmental Protection Agency over weakening a rule designed to limit mercury and other wind-blown pollutants emitted by power plants fueled with oil and coal.

The lawsuit, filed in the U.S. Court of Appeals circuit in the District of Columbia, seeks to overturn the agency's decision, which found it "not appropriate" or "necessary'' to regulate the emission of mercury and other toxic compounds from power plants, a reversal of a stance taken by the administration of President Barack Obama.

In adopting the rule in 2012, the Obama administration said the benefits of reducing mercury and other air pollutants would save consumers $90 billion, but President Donald Trump's team concluded the rules would save only between $4 million and $6 million. The $10 million cost to power producers outweighed the benefits of adding more sophisticated pollution controls, the EPA then concluded.

"It's absurd that in the midst of an unprecedented pandemic, President Trump is putting the interests of the coal lobby and polluters ahead of the health of the American public,'' said Massachusetts Attorney General Maura Healey in a statement.

Danger to pregnant women, children

Environmentalists, too, derided the switch in policy.

"It is important for New Jersey to stand up to the White House because we have advisories that say pregnant women and children shouldn't eat trout and other fish from pristine streams in the middle of the Pinelands and Highlands," said Jeff Tittel, director of the New Jersey Sierra Club. "This is because mercury in the sky falls from out-of-state power plants.''

The Sierra Club and other environmental organizations already have sued the Trump administration for undermining the mercury standards, Tittel noted. Mercury has been found to damage lungs and the brain, and is linked to developmental disorders in children.

The rule change is the latest rollback by the Trump administration, which critics say has sought to weaken more than 100 different environmental laws since the Republican took office.

New Jersey already has some of the nation's toughest limits on how much mercury can be emitted from power plants and waste-to-energy incinerators. But environmentalists say the Garden State still suffers from wind-blown pollution from states to the west and south.

Some power plants have installed the technology to limit emissions and have been complying with the original Obama rule.

Besides New Jersey and Massachusetts, the attorneys general of Connecticut, Delaware, Illinois, Maine, Maryland, Michigan, Minnesota, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington and Wisconsin and the District of Columbia have also joined in the lawsuit. The cities of Baltimore, Chicago and New York also signed on to the petition yesterday.

NJ.com
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After drilling mishap condemns home, gas pipeline opponents ask to halt all work

By Steve Strunsky
July 22, 2020 (updated)

Opponents of a 30-mile natural gas pipeline being laid in Monmouth, Ocean and Burlington counties have asked a court to halt all work on the project, after one of several horizontal drilling accidents along its route damaged a house and prompted state regulators to freeze the drilling permits.

A coalition of environmental groups and two municipalities along the route of the New Jersey Natural Gas pipeline through the state's environmentally sensitive Pinelands region are suing to kill the project in a case now pending before the Appellate Division of state Superior Court.

In filing the motion for a stay — an order by the appellate court temporarily halting the work — the coalition last Friday cited a July 8 decision by the state Department of Environmental Protection to suspend more than 50 permits it had issued the gas company to conduct horizontal directional drilling, or HDD, below surface wetlands along the route of the pipeline, known as the Southern Reliability Link.

The coalition, which includes the New Jersey Sierra Club, the Pinelands Preservation Alliance, the City of Bordentown and Chesterfield Township in Burlington County, wants the court to issue the stay pending a final ruling in the case.

The gas company says the $180 million project is necessary as an alternative gas delivery system in the event of an emergency.

But the project has been opposed by residents along its route and environmentalists, some of whom insist the pipeline is actually an attempt by NJNG to boost its gas transport capacity as the fracking-driven natural gas boom in Pennsylvania's Marcellus Shale region continues.

The pipeline project was approved in 2017 by the DEP and the New Jersey Pinelands Commission under former Republican Gov. Chris Christie. The ongoing suit seeks to overturn the DEP and Pinelands Commission approvals.

Under Christie's Democratic successor, Gov. Phil Murphy, the DEP suspended the drilling permits pending an investigation of at least eight mishaps in 2019 and 2020.

In addition to the drilling mishaps, opponents of the project also cited a sink hole that opened up on June 26 along the pipeline route in New Egypt, in Ocean County.

Most notably, on June 19, a drilling mishap sent sludge-like fluid, known as drilling mud, under a house in Upper Freehold Township, cracking the foundation and prompting the house's condemnation. Sludge was also forced up to the surface and into a stream bed. Drilling on the site was halted while officials investigated the incident, and the DEP later suspended all of the project's drilling permits.

A spokesman for New Jersey Natural Gas, Kevin Roberts, issued a statement Tuesday rejecting pipeline opponents' rationale for requesting the stay. The statement insisted the company's response to the drilling incidents, "was quick, fully in line with our response and mitigation plans, and conducted with the oversight of DEP officials."

"Drilling activity remains suspended, and we continue to work collaboratively with the DEP and Burlington County Engineer to provide the information they've requested, including steps we are taking to strengthen our mitigation and prevention efforts for the project's few remaining drilling locations," the statement read.

The type of incident in question is known in the industry as an "inadvertent return," when a sludge-like mixture used to facilitate the drilling escapes from the bore cavity into cracks in the subterranean bedrock and returns to the surface, or travels elsewhere. NJNG has insisted that the drilling mud they use is a non-toxic, organic mix of water and clay.

Environmentalists call the incident a "spill," and insist that the sludge, toxic or not, is harmful to the plants, wildlife or structures it disturbs.

Ironically, the June 19 incident sent sludge into the very wetlands the gas company and the DEP were trying not to disturb by employing horizontal drilling in that location, thus avoiding having to dig a conventional surface trench to lay the 24-inch-diameter pipe. Trench digging is the method used along most of the pipeline's route, which is about two-thirds dug, with several proposed drilling sites remaining.

"We said all along this could happen along the route," the Sierra Club's director, Jeff Tittel, said in a statement Wednesday. "This is the wrong pipeline in the wrong place at the wrong time."

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Feds hatch plan to clean Superfund site on Passaic River

By Michael Sol Warren
July 22, 2020 (updated)

The banks of the Passaic River are set to become a little cleaner.

On Wednesday, the U.S. Environmental Protection Agency announced a plan to clean-up the Riverside Industrial Park Superfund site in Newark. The site, a nearly 8-acre chunk of land wedged between Route 21 and the Passaic River in the city's North Ward, has an industrial history dating back nearly 120 years.

For much of that history, the site was owned by PPG Industries, Inc. and the company's predecessors. The property was used to manufacture things like paint, varnish and resins -- work that left the area polluted with a range of contaminants from lead to harmful substances like volatile organic compounds (VOCs) and polychlorinated biphenyls (PCBs).

Today, the site is an active industrial park that is home to some businesses, though the City of Newark owns portions of the property through foreclosures. A spokesman for the city did not answer a request for comment.

In 2009, the EPA and the New Jersey Department of Environmental Protection responded to an oil spill in the river that was traced back to a pipe on the site. In the immediate response to that incident, authorities found 10 abandoned underground storage tanks holding hazardous waste, as well as hazardous liquid and sludge in the basement of on of the vacant buildings on the property.

Short-term clean-up at the site removed the most threatening pollution between 2009 and 2014. The site was added to the national Superfund list in 2013. The remaining contamination has been in place since then.

"EPA previously took action to prevent further release of hazardous chemicals into the river by plugging a discharge pipe and addressing the tanks that were the source of the release at the Riverside Industrial Park site," said EPA Regional Administrator Pete Lopez. "Today, after an extensive investigation of this industrial park with the [DEP], we are proposing what we believe are the best methods to clean up the contamination and maintain the protection of public health over time."

The EPA's new plan calls for some of the site's polluted soil to be removed and disposed of, and the rest of it capped to prevent the pollution from spreading in the future. Waste found in the remaining underground storage tanks will also be taken away for disposal.

Contaminated groundwater at the site will be cleaned using a pump and treat system before being discharged back into the environment. Sewer water from a defunct sewer system at the site with be removed, treated and disposed of off-site.

Any buildings constructed on the site in the future will have to have vapor-control systems installed to prevent VOCs and other toxic vapors from rising up from the soil into workplaces. Such vapor systems may be required to be installed in the site's existing buildings, though the EPA is still determining if that is needed.

The EPA will hold a public hearing on its clean-up plan for the Riverside Industrial Park site online on August 5 at 7 p.m. People who wish to join the meeting are asked to register in advance online, or email Shereen Kandil, Community Involvement Coordinator, at kandil.shereen@epa.gov or calling her at (212) 637-4333.

Written public comment on the EPA plan will be accepted until August 21. Those comments can be mailed or emailed to: Josh Smeraldi, Remedial Project Manager, U.S. Environmental Protection Agency, 290 Broadway, 18th Floor, New York, New York 10007-1866 or smeraldi.josh@epa.gov.

NNY 360
https://www.nny360.com/opinion/letters/epa-facilitated-settlement-for-grasse-river/article_8f8f1709-9c7c-52eb-bc71-8787a21727c3.html

EPA facilitated settlement for Grasse River

July 23, 2020

In your July 16 article, "Arconic will provide $2.25 million towards mussel restoration on Grasse River," you note that New York state asked for specific habitat reconstruction requirements in the U.S. Environmental Protection Agency's cleanup.

The story includes a quote from the state Department of Environmental Conservation that would lead people to believe that EPA stands in opposition to the habitat reconstruction project. The EPA takes exception to being portrayed as a roadblock to protecting natural resources in a situation where the opposite is true.

The truth is that the EPA got the ball rolling on an agreement between Arconic and the DEC by approaching the company and writing to the DEC to suggest it pursue a separate agreement outside the purview of Superfund. The EPA facilitated negotiations through discussions individually and with both parties resulting in the final settlement.

The EPA also has bridged the gap between Superfund and the desired outcome using its Great Lakes Restoration Initiative to work with the DEC and Saint Regis Mohawk Tribe on mussel propagation, a mussel habitat enhancement project, and funded a lake sturgeon study in the lower Grasse River.

To be clear, the EPA went above and beyond our responsibilities under the federal Superfund program to creatively and collaboratively find a way for the mussel relocation to occur.

We were and remain deeply invested in responding to the desire of the SRMT to care for the natural and cultural resources on the Grasse River, and we took action to further that protection.

Far from denying the mussel relocation, the EPA facilitated the very settlement that the DEC announced.

Pete Lopez

New York City

The writer is administrator for the U.S. Environmental Protection Agency for Region 2.