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Contact:

Maya van Rossum, the Delaware Riverkeeper, 215-801-3043, keepermaya@delawareriverkeeper.org

Delaware Riverkeeper Network Statement on Court Decision to Vacate Clean Water Act Section 401 Regulatory Rollbacks

U.S. District Court, Northern District of California – On October 21, 2021, a judge for the U.S. District Court vacated the Trump administration’s rollback to Section 401 of the Clean Water Act in a consolidated legal action involving multiple states, tribes, and non-profit groups seeking review of the Trump rule. The Delaware Riverkeeper Network filed a similar [legal challenge](#) to these rollbacks in the U.S. District Court, Eastern District of Pennsylvania on July 13, 2020, and in that case, the EPA had been ordered to expedite its rulemaking process to resolve the issues created by the 401 Certification Rule.

“We applaud the court’s decision to vacate the rule, which was nothing more than the Trump administration bending over backwards to accommodate the fossil fuel industry. The rulemaking was an illegal and unconstitutional power grab designed to undermine states’ rights, state authority, state sovereignty, and the role of Congress as the lawmakers of our nation,” said **Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.**

The proposed changes had particular relevance for fracked gas pipelines that have been on the leading edge of the debate about the strength and future of section 401. Until the rollbacks, a federal agency could not authorize a project such as a fracked gas pipeline until the state issued a 401 certification or waived their right to do so. The new rules sought to temper this authority in significant and illegal ways. A 2019 Executive Order issued by Mr. Trump emphasized that this changed rule was intended to help advance fossil fuel infrastructure.

Read the Judge’s order vacating the rule [here](#).

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DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
dm@delawareriverkeeper.org
www.delawareriverkeeper.org