

Supreme Court will hear eminent domain battle

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Published: February 3, 2021 at 9:47 AM



The Supreme Court. Francis Chung/E&E News

The Supreme Court has agreed to weigh in on whether a private company can use eminent domain to seize state-owned land to build a natural gas pipeline between Pennsylvania and New Jersey.

PennEast Pipeline Co. LLC has asked the high court to overturn the 3rd U.S. Circuit Court of Appeals' finding that suing New Jersey to take its land without its consent violated the Garden State's sovereign immunity under the 11th Amendment to the Constitution.

The company had sought to seize 42 parcels of state land in New Jersey to build its 116-mile project before it was blocked by the 3rd Circuit in 2019.

PennEast and other industry groups said in recent friend of the court briefs that the 3rd Circuit decision overturned decades of precedent and would be "profoundly

disruptive" to energy development and related industries ([*Energywire*](#), March 25, 2020).

The high court's decision to take the case came after the Justice Department came out in support of PennEast's position.

Acting Solicitor General Jeff Wall urged the justices to review the dispute, arguing that the 3rd Circuit lacked jurisdiction over the case. He supported PennEast's position that the Natural Gas Act authorized the Federal Energy Regulatory Commission to delegate its eminent domain authority to project developers holding a certificate of public convenience and necessity from the agency ([*Energywire*](#), Dec. 11, 2020).
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