



For Immediate Release

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State Law Giving Data Center ‘Deemed Approval’ is Unconstitutional, Lawsuit Says

Provisions of the Municipalities Planning Code asserted to have given ‘Deemed Approval’ to a Data Center are Challenged on Environmental Rights, Property Rights & Due Process Grounds

Muncy Township, PA: Green Amendments For The Generations (a Pennsylvania-based environmental organization) and Muncy Township, joined by neighbors and residents, have challenged sections of the state Municipalities Planning Code as unconstitutional. The case, filed in the Commonwealth Court of Pennsylvania on September 25, 2026, argues that the asserted ‘Deemed Approval’ of the Danko Data Center violates environmental rights and due process protections. If victorious, this case could have far-reaching ramifications for data centers and development projects statewide who have long enjoyed the benefits of ‘Deemed Approval’ as a way to advance.

“State sanctioned ‘Deemed Approval’ of data centers and other projects turns state law on its head; rather than protecting the health, safety, and welfare of our people, it now serves the purely profit goals and business objectives of corporations, big business and now AI companies” **said Maya van Rossum, Founder and Leader of Green Amendments For The Generations**, a national organization seeking, securing and enforcing constitutional environmental rights across the U.S.

On April 28, 2026, Danko Holdings II, LP and Fishlips, LLC attempted to submit an application for development of what is commonly referred to as the “Danko Data Center,” proposed to be built in Muncy Township. The proposed data center would include three data center buildings, two fourteen-pod facilities, one eight-pod facility, water storage tanks, a water treatment facility, a substation, and auxiliary structures, and would be located right next door to residential, historic, and agricultural landscapes. In July, when the Township had not held a conditional use hearing within 60 days, nor rendered a determination on the data center application materials based on procedural steps the municipality was pursuing regarding data center applications, Danko Holdings and Fishlips published notice that their application was “deemed approved” by virtue of the

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Municipalities Planning Code (MPC), a state law authorizing and overseeing local land use decisionmaking.

“Data centers are wreaking havoc on our communities and environment, inflicting massive development, water use, noise, light, vibration and pollution impacts on the communities where we live and the nature we need and enjoy. While we have repeatedly seen the data center companies use state and federal law to advance their projects regardless of local community wishes, today *We The People* are using our state and federal constitutions to defend the environmental and due process rights of the people, standing in our own defense when faced with the cataclysmic consequences of a data center,” **added van Rossum**. “Unless an extension is granted by the applicant, the MPC includes prescribed time limitations for local government to hold hearings, undertake its own reviews and to enter final decision-making. The result is that developers of data centers and other uses have immense power over the timing of project reviews, including the power to rob local government and communities of the time they need to fully consider a proposed project and to access needed expertise. All the way around, the developers hold tremendous power.”

“It is the legal construct of ‘Deemed Approval’ that we take issue with in this legal filing,” **van Rossum explained**. “By virtue of the Pennsylvania Green Amendment, Pennsylvanians have a constitutional right to pure water, clean air, and to the natural, scenic and aesthetic values of their environment. They also have a right to ensure their government officials act as trustee of the state’s natural resources with a duty to conserve and maintain them for present and future generations. Pennsylvanians also have due process rights, including the right to be heard before government deprives them of their life, liberty or property. A state law that deems a data center, or other serious development proposals, approved, regardless of its size or impact, without the opportunity for communities to be heard and local government officials to be meaningfully engaged, is a clear overreach of constitutional proportions.”

“The asserted deemed approval of a data center in Muncy Township is an intentional effort to strip the rights of our residents by a developer without regards for the community being invaded. Further, with the proposed data center, the residents within Muncy Township will have their clean air, pure water, and the preservation of the natural, scenic, historic, and esthetic values of their environment corrupted by this developer forever,” **said Dewey Waugh, a resident of Muncy and petitioner on the case**.

“The deemed approval took away our rights to protect our community from this proposed data center. The noise and pollution from a data center will be a constant disruption to our otherwise peaceful township---a township of farms, historic homes and barns, and an historic Quaker Friends Meetinghouse. Our wells and river will be affected by the massive water usage. This small township is not the place for a data center,” **added Karin Waugh, also a resident and petitioner on the case**.

According to the legal filing, ‘Deemed Approvals’ violate citizens' environmental rights as protected under Article I Section 27 of the PA constitution, violate property rights under Article I, Section 1 of the PA constitution, deny municipalities the ability to make sure data centers are compatible with surrounding land uses, and violate due process rights protected under the 5th and 14th amendments

of the U.S. constitution. Among the ramifications of ‘Deemed Approval,’ according to the legal filing, are: denying affected and aggrieved community members a public forum to understand a proposed application, cross-examine witnesses, provide public comment, and to object to approval; bypassing review and decision-making by municipal government, including preventing them from fulfilling constitutional obligations to ensure environmental rights and duties are fulfilled, property rights are protected, and due process rights are honored; denying municipalities the ability to make sure data centers are compatible with surrounding land uses; allowing incompatible land uses to be built in established zoning districts; and/or allowing development of projects that are unable to meet criteria established to ensure the protection of the community’s health, safety and welfare.

The case requests that the court declare the provisions of the MPC at issue to be unconstitutional for violating Article I, Section 1 and Article I, Section 27 of the PA constitution, and the 5th and 14th amendments of the U.S. constitution and that the challenged provisions of the MPC be stricken from Pennsylvania law. If the case is successful, the Danko Data Center would be subject to the ordinances and standards of Muncy Township and applicable state laws, and communities across the state would be assured their opportunity for environmental rights and due process protections on all future development proposals.

Green Amendments For The Generations was founded in 2014 to help communities nationwide secure and enforce (through education, advocacy and legal action) constitutional Green Amendments that give bill of rights recognition to the right of all people to a clean, safe and healthy environment – including pure water, clean air, a safe climate, thriving ecosystems, and a healthy environment – and ensure an enforceable duty on all government officials within a state to protect natural resources for the benefit of present and future generations. Pennsylvania is the first state in the nation to pass a Green Amendment of this kind. Montana and New York are the only other two states with similar constitutional environmental rights provisions. GAFTG is working with communities in over 20 other states who have been inspired to pursue their own Green Amendments. Find more information at www.GreenAmendment.org.

Maya van Rossum, in her role as the Delaware Riverkeeper, was the lead environmental petitioner in the landmark legal victory *Robinson Township, Delaware Riverkeeper Network, et. al. v. Commonwealth*, that breathed legal strength into the environmental rights provision, Article I, Section 27, of the Pennsylvania state constitution (now commonly referred to as the Pennsylvania Green Amendment.) It was that victory that prompted van Rossum to Found Green Amendments For The Generations in order to help communities nationwide secure and enforce similar constitutional protections.

John Smith, partner with Smith & Butz, LLC was lead legal counsel in that historic environmental rights victory that was the foundation for today’s national Green Amendment movement.

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