

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 26-1252 (consolidated with No. 26-1253)

NATURAL RESOURCES DEFENSE COUNCIL, INC. *et al.*
Petitioners,

- v. -

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION;
SHAWN M. LATOURETTE, COMMISSIONER, NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Respondents,

and

TRANSCONTINENTAL GAS PIPELINE COMPANY, LLC
Respondent-Intervenor.

**BRIEF OF PROPOSED AMICUS CURIAE NEW JERSEY BUSINESS &
INDUSTRY ASSOCIATION IN SUPPORT OF RESPONDENT-
INTERVENOR TRANSCONTINENTAL GAS PIPELINE COMPANY, LLC**

David R. Kott (No. 018131977)
Rachel D. Santos (No. 488842024)
McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Telephone: (973) 622-4444
*Attorneys for Amicus Curiae New Jersey
Business & Industry Association*

**CORPORATE DISCLOSURE STATEMENT
AND STATEMENT OF FINANCIAL INTEREST**

Pursuant to Rule 26.1 and Third Circuit LAR 26.1, the New Jersey Business & Industry Association makes the following disclosure:

1) For non-governmental corporate parties please list all parent corporations:

NONE

2) For non-governmental corporate parties please list all publicly held companies that hold 10% or more of the party's stock:

NONE

3) If there is a publicly held corporation which is not a party to the proceeding before this Court but which has a financial interest in the outcome of the proceeding, please identify all such parties and specify the nature of the financial interest or interests:

NONE

4) In all bankruptcy appeals counsel for the debtor or trustee of the bankruptcy estate must list: (i) the debtor, if not identified in the case caption, (ii) the members of the creditors' committee or the top 20 unsecured creditors; and (iii) any entity not named in the caption which is an active participant in the bankruptcy proceeding. If the debtor or trustee is not participating in the appeal, this information must be provided by the appellant.

NOT APPLICABLE

Dated: May 4, 2026

/s/ David R. Kott

David R. Kott

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	iii
STATEMENT OF IDENTIFICATION.....	1
RULE 29(c)(5) STATEMENT	2
SUMMARY OF ARGUMENT	2
ARGUMENT	4
I. Section 401 of the Clean Water Act Gives States a Role in Interstate Natural Gas Pipeline Projects Specific to Water Quality Compliance.	4
II. The NESE Project Was Approved Through the Required Review Process and Serves Important, Regional Economic and Energy Needs.	7
III. Expanding Section 401 Beyond Its Scope Would Undermine Regulatory Finality and Impose Serious Harm.	10
CONCLUSION.....	15

TABLE OF AUTHORITIES

Page(s)

Cases

Delaware Riverkeeper Network v. Sec'y Pennsylvania Dep't of Env't Prot.,
903 F.3d 65 (3d Cir. 2018)..... 11

Hoopa Valley Tribe v. FERC,
913 F.3d 1099 (D.C. Cir. 2019).....6

Twp. of Bordentown, New Jersey v. FERC,
903 F.3d 234 (3d Cir. 2018)..... 4, 6

Statutes

15 U.S.C. § 717f(c) 5, 6, 10, 11

15 U.S.C. § 717f(e) 5, 6, 10, 11

33 U.S.C. § 1341(a)(1)..... 4, 5, 10

33 U.S.C. § 1341(d) 5, 10

33 U.S.C. § 13446

15 U.S.C. § 7175

Other Authorities

FITCH RATINGS, *North American Infrastructure Projects Challenged by Rising Costs* (October 27, 2025),
<https://www.fitchratings.com/research/infrastructure-project-finance/north-american-infrastructure-projects-challenged-by-rising-costs-27-10-2025> 14

NJBIA, *Groundbreaking Held for \$1B Underwater NJ-NY Natural Gas Pipeline*, <https://njbja.org/groundbreaking-held-for-1b-underwater-nj-ny-natural-gas-pipeline/>9

ASCE, *Pennsylvania Civil Engineers Give the State’s Infrastructure a “C-” Grade* (November 15, 2022), <https://www.asce.org/publications-and-news/civil-engineering-source/society-news/article/2022/11/15/pennsylvania-civil-engineers-give-the-state-infrastructure-a-c--grade> 13

U.S. ENERGY INFORMATION ADMINISTRATION, *Electric Power Sector Has Driven Rising Pennsylvania Natural Gas Consumption Since 2013* (January 29, 2025), <https://www.eia.gov/todayinenergy/detail.php?id=64424>..... 9, 10

U.S. ENERGY INFORMATION ADMINISTRATION, *In 2025, U.S. Natural Gas Spot Prices Increased From 2024’s Record Low* (January 9, 2026), <https://www.eia.gov/todayinenergy/detail.php?id=66984> (“In the Northeast, natural gas spot prices . . . surged in early 2025, primarily driven by colder temperatures and supply constraints within the region’s pipeline network.”)9

U.S. ENERGY INFORMATION ADMINISTRATION, *Total Energy Consumption Estimates Per Capita By End-Use Sector, Ranked By State, 2023* [https://www.eia.gov/state/seds/data.php?incfile=/state/seds/summary/html/rank_use_capita.html&sid=US](https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep_summary/html/rank_use_capita.html&sid=US) (Pennsylvania ranking #18 in total industrial energy consumption in 2023) 8, 9

STATEMENT OF IDENTIFICATION¹

Founded in 1910, Amicus Curiae New Jersey Business & Industry Association (“NJBIA”) is the nation’s largest single state-wide organization of employers, reflecting all industries and representing every region of New Jersey. Its mission is to provide information, service, and advocacy for its members to build a more prosperous New Jersey. Its members employ approximately one million people in the State of New Jersey and its membership ranges from most of the 100 largest businesses in New Jersey to thousands of small and medium-sized companies from every sector of the economy.

Many of NJBIA’s members are involved in or depend upon important infrastructure projects across a wide variety of industries which benefit both industry and the general public. As these projects often require both federal and state permits, NJBIA advocates for reliable and clear rules associated with the permitting framework. Where issues raised in a case are of significant interest to the New Jersey business community—as is the case here—NJBIA has been granted leave to appear as Amicus Curiae before this Court. This case involves Section 401 of the Clean Water Act 33 U.S.C. § 1341, which assigns states a limited role in making certification decisions regarding discharges that may affect water quality. NJBIA

¹ The parties to the present appeal have graciously consented to the NJBIA’s filing of this brief.

has a substantial interest in the proper interpretation of Section 401 of the Clean Water Act because NJBIA members rely on a predictable permitting system with clear statutory limits to follow. If a narrow water quality certification process is improperly expanded into a broad vehicle for opponents of projects to assert policy objections and delay important projects which have already received final approval, major infrastructure projects that require long-term commitments and planning will be impacted with resulting harms cascading throughout the region.

RULE 29(c)(5) STATEMENT

Pursuant to Rule 29(c)(5), no party's counsel other than the undersigned counsel for the NJBIA authored this brief in whole or in part. No party, party's counsel, or person contributed money to fund the preparation of this brief.

SUMMARY OF ARGUMENT

This Court should uphold the New Jersey Department of Environmental Protection's ("NJDEP") water quality certification and decline to extend the state's limited role under Section 401 of the Clean Water Act, 33 U.S.C. § 1341, ("Section 401") beyond what has been expressly designated and authorized by Congress.

This appeal involves the reliability and predictability needed to carry out important and necessary infrastructure projects. Specifically, this appeal concerns whether regulated entities can reasonably rely on final agency approvals, subject to extensive state and federal review, to pursue necessary infrastructure investment

projects to completion. New Jersey businesses need clear, consistent rules regarding permitting for these projects.

Interstate natural gas pipeline construction falls within a highly regulated, federal permitting scheme. The relevant statutes reflect the deliberate balance between federal authority and state involvement Congress sought to enact in these projects. Individual states are permitted a limited role in ensuring that certain federally regulated activities which involve discharge into a state's waters comply with applicable state and federal water quality standards. This is all that is prescribed to a state. Under the framework, ultimate approval of the project rests with the Federal Energy Regulatory Commission ("FERC").

Here, as one of the final steps involved in a ten-year permitting process, the NJDEP issued a number of permits related to the Northeast Supply Enhancement Project ("NESE Project"), a proposed interstate natural gas infrastructure involving Transcontinental's pipeline system across New Jersey, New York, and Pennsylvania. NJBIA submits that when the record demonstrates a project has completed the required review process and received final approval, this Court should not allow a state's Section 401 water quality certification to be used as an expansive and improper tool for opponents of projects to delay necessary, federally regulated infrastructure developments.

If this Court were to accept Petitioners' interpretation, a state's role would be

expanded beyond what Congress expressly designated—Section 401 would become an improper mechanism for opponents of projects to recast duplicative, broad objections to a project disguised as water quality certification objections. Congress did not design Section 401 for this purpose. The NESE Project serves important, regional economic and energy needs and received a lawful, final approval following compliance with the prescribed framework. This Court should affirm.

ARGUMENT

I. Section 401 of the Clean Water Act Gives States a Role in Interstate Natural Gas Pipeline Projects Specific to Water Quality Compliance.

Section 401 of the Clean Water Act gives states a defined role in the federal framework governing interstate natural gas pipeline permitting: certifying that any discharge into navigable waters complies with applicable water quality standards. 33 U.S.C. § 1341(a)(1). The state’s narrow function reflects the intentional balance between state and federal authority established by Congress for interstate pipeline approval. See Twp. of Bordentown, New Jersey v. FERC, 903 F.3d 234, 244 (3d Cir. 2018) (“The [Natural Gas Act] and [Clean Water Act] converge where, to construct an interstate pipeline, a company must discharge into—or displace water from—the navigable waters of the United States.”). Nothing in the statutory framework suggests Congress intended Section 401 to serve as a license for states to conduct broad environmental review of federally regulated infrastructure projects untethered to water quality or to allow delays to projects based on general policy

objections and mere disagreement with an agency's findings.

Under the Natural Gas Act, 15 U.S.C. § 717, (“NGA”), Congress vested FERC with authority to regulate the construction of interstate natural gas pipelines and assess public convenience and necessity. 15 U.S.C. §§ 717f(c), (e). Section 401 operates within this framework, requiring that “[a]ny applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency” in this case, FERC, “a certification from the State in which the discharge originates or will originate” that any discharge will comply with the applicable provisions of the Clean Water Act and related state water quality standards. 33 U.S.C. § 1341(a)(1). Thus, the targeted role of a state is to ensure compliance with water quality standards, while FERC—which receives the certification from a state—retains final approval authority. 33 U.S.C. § 1341(a)(1).

Section 401’s express time limit underscores a state’s limited role. If a state “fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year)” the certification requirement is waived. *Id.* If a water quality certification under Section 401 were to permit prolonged uncertainty after final approval by the federal agency vested with such authority, the waiver provision would have no meaning. This cannot be so, especially when to do

so would also displace FERC's distinct role under federal law. See Hoopa Valley Tribe v. FERC, 913 F.3d 1099, 1104 (D.C. Cir. 2019) (noting delays in issuing water quality certifications “could be used to indefinitely delay federal licensing proceedings and *undermine FERC's jurisdiction to regulate such matters.*”) (emphasis added). As the Third Circuit has cautioned, the Clean Water Act should not be expanded “from a statute meant to safeguard the nation's water sources to a statute regulating the initiation of an interstate pipeline's construction process.” See Twp. of Bordentown, 903 F.3d at 247.

This reading of Section 401 is consistent with the broader permitting structure for interstate natural gas pipeline projects. Congress did not assign every environmental issue to a state in issuing a water quality certification. Other environmental concerns relating to a project's impact are addressed through separate permits, reviews, and agency determinations under the framework. FERC, as the agency vested with final approval authority for interstate gas pipeline projects, considers a number of environmental factors before issuing a certificate of public convenience and necessity. 15 U.S.C. §§ 717f(c), (e). Activities related to the discharge of dredges or fill material into navigable waters are also separately regulated through permits issued under Section 404 of the Clean Water Act. 33 U.S.C. § 1344.

In short, Section 401 reflects Congress's judgment and balance of

environmental considerations and infrastructure development in that state review must occur within clear limits so review of federal licensing projects may move forward. It is not a broader mechanism for opposing federally regulated infrastructure projects on grounds beyond a state's limited water quality compliance function, and should not be permitted to be used by opponents of projects as one through litigation.

II. The NESE Project Was Approved Through the Required Review Process and Serves Important, Regional Economic and Energy Needs.

The NESE Project was advanced through the federal and state review processes established for interstate natural gas infrastructure, resulting in FERC's issuance of a certificate of public convenience and necessity. See Transcon. Gas Pipe Line Co., 192 FERC ¶ 61,184 (Aug. 28, 2025) ("FERC Order")²; see also 2025 NJ WQC, Permit 0000-25-0012.1LUP250001 (NJDEP confirming compliance with applicable water quality standards). When, as here, the record demonstrates that a project has proceeded through the prescribed framework and received approval from the agencies designated by Congress to make such decisions, those determinations should be given meaningful finality.

FERC approved the NESE Project after considering the vital, regional energy and economic needs the NESE Project serves and the important environmental

² As the Joint Appendix has not been submitted as of the date of the filing of this brief, citations to the Joint Appendix are not provided herein.

interests involved. FERC Order at 5-12. Before issuing its approval, FERC evaluated the NESE Project's public convenience and necessity, system reliability, effects on interstate markets and commerce, and broader consumer and environmental impacts. Id. at 12-26. In finding that the NESE Project would provide reliable energy and encourage price stability in energy markets, FERC looked to market studies indicating reliability and supply benefits in downstate New York, projected consumer benefits including an estimated \$446 million per year in wholesale electric energy savings, and found that the NESE Project would have no adverse effect on Transcontinental's existing customers. Id. at 22. The NJDEP also conducted its own review of the NESE Project's compliance with applicable water quality standards and imposed certain conditions to reduce the risk of harm to specific areas as part of the water quality certification. This is the review process contemplated by Congress.

These agency findings matter not only to comply with the statutory structure described above, but also as a matter of practical economic reality. The NESE Project, similar to other large-scale infrastructure projects, was assessed in the context of the larger, regional energy network it serves. Reliable and affordable energy service is the foundation for economic activity. It is essential not only to utilities, but also to the various manufacturers, local businesses, healthcare institutions, and households that depend on stable energy resources to operate on a day-to-day basis. See U.S. ENERGY INFORMATION ADMINISTRATION, *Total Energy*

Consumption Estimates Per Capita By End-Use Sector, Ranked By State, 2023
https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep_sum/html/rank_use_capita.html&sid=US (Pennsylvania ranking #18 in total industrial energy consumption in 2023); NJBIA, *Groundbreaking Held for \$1B Underwater NJ-NY Natural Gas Pipeline*, <https://njbja.org/groundbreaking-held-for-1b-underwater-nj-ny-natural-gas-pipeline/> (the NESE Project “will provide enough energy to serve the equivalent of 2.3 million homes” in the Northeast region.). This is evident in the Northeast where high energy demand, as a result of severe weather experienced during all seasons, places significant stress on energy systems. U.S. ENERGY INFORMATION ADMINISTRATION, *In 2025, U.S. Natural Gas Spot Prices Increased From 2024’s Record Low* (January 9, 2026), <https://www.eia.gov/todayinenergy/detail.php?id=66984> (“In the Northeast, natural gas spot prices . . . surged in early 2025, primarily driven by colder temperatures and supply constraints within the region’s pipeline network.”). Indeed, New Jersey, Pennsylvania, and New York—the states involved in the NESE Project—are vulnerable to extreme weather conditions. The Northeast region depends on adequately supplied natural gas infrastructure to support reliable energy services, price stability, resiliency to extreme weather and fuel disruptions, and to reduce operational stress on other energy systems in the region. U.S. ENERGY INFORMATION ADMINISTRATION, *Electric Power Sector Has Driven Rising Pennsylvania Natural Gas Consumption Since*

2013 (January 29, 2025), <https://www.eia.gov/todayinenergy/detail.php?id=64424>.

When energy infrastructure is constrained, the resulting harms extend across the regional economy through price instability, supply limitations, and prolonged reliance on constrained, less reliable, and often more costly energy alternatives.

However, these economic considerations do not diminish the environmental protections involved in the natural gas infrastructure permitting framework but instead demonstrate that both interests coexist in the review process. NJBIA does not contend that infrastructure projects with important economic needs should be automatically approved or insulated from meaningful review and scrutiny. Those in opposition to infrastructure projects are entitled to raise legitimate objections. This is precisely why the permitting framework incorporates various levels of agency review, technical analysis, and public input. 15 U.S.C. §§ 717f(c), (e); 33 U.S.C. §§ 1341(a)(1), (d). However, when, as here, a project has undergone the required review and received final approval from the entity Congress designated to issue that determination, Section 401 should not be construed to permit duplicative review of the project's overall merits under the guise of water quality certification objections.

III. Expanding Section 401 Beyond Its Scope Would Undermine Regulatory Finality and Impose Serious Harm.

The procedural history in this case matters because the NJDEP's water quality certification—and the Petitioners' challenges to it—must be understood within the broader framework Congress created for interstate natural gas pipeline permitting.

15 U.S.C. § 717f(c), (e).

Petitioners challenge the NJDEP's treatment of issues such as mixing zones, monitoring plan assumptions, dredging activities, and effects on endangered species habitat. See Pet. Baykeeper Br. at 6 (noting the NJDEP's water quality certificate "would allow Transco to dig a trench in the seabed in order to install the pipe, and then backfill the trenched area, using various dredging methods"); 30 ("the WQC authorizes dredging activities which would release . . . mercury . . . into New Jersey waters, based on modeling which projected that concentrations of these pollutants would meet applicable water quality criteria *only* at the edge of a 500-foot mixing zone"); 39 (arguing the "50 mg/L as a benchmark for compliance" is "patently unreasonable" given modeling assumptions); 26 (claiming "[t]he construction and operation of the NESE project will harm Environmental Petitioners' members" in the context of standing). While these objections reflect disagreement with the NJDEP's technical analysis and broader concerns with the NESE Project, they do not establish that the NJDEP failed to carry out its role under Section 401. Section 401 does not permit opponents of projects to use a state's water quality certification to relitigate an agency's technical judgments simply because they disagree with them. See Delaware Riverkeeper Network v. Sec'y Pennsylvania Dep't of Env't Prot., 903 F.3d 65, 76-77 (3d Cir. 2018).

This limit is essential to regulatory certainty. Large-scale infrastructure

projects depend on financing, contractual commitments, insurance commitments, and coordinated planning and construction schedules involving numerous entities. As the FERC Order reflects, the NESE Project involves onshore and offshore pipeline loops in New Jersey, New York, and Pennsylvania, significant labor, agreements with two subsidiaries of National Grid, fifteen-year service agreements with project shippers for transportation service, coordination with multiple agencies, and monthly reporting requirements. FERC Order at 2-5, 59. The various considerations involved, not only for pipeline projects but all necessary infrastructure projects—transmission lines, the development of manufacturing facilities, and other major investments—rely on the finality of approvals issued after full review.

Petitioners' position would transform Section 401 from a targeted water quality certification process into a vehicle for broader opposition to federally regulated infrastructure projects by permitting objections that extend beyond water quality compliance, including dredging methods and effects on endangered species, and affording project opponents a second bite at the environmental review apple on matters addressed through other permits. See e.g., 33 U.S.C. § 1344. If a project sponsor can satisfy the requirements necessary for an application, complete required studies, respond to agency comments, accept permit conditions, and receive final approval, yet still face prolonged uncertainty through open-ended challenges,

Section 401 no longer serves as a mechanism for ensuring water quality compliance as Congress intended. Instead, it becomes a tool for strategic delay by opponents of projects to block the construction of facilities that have otherwise satisfied the governing review process.

Further, delays in this context are not harmless. Unlike other circumstances where delay operates as a neutral byproduct of the judicial review process, delays in large-scale infrastructure projects would disrupt planning and threaten the viability of important infrastructure projects with regional impacts, even without a formal denial. ASCE, *Pennsylvania Civil Engineers Give the State's Infrastructure a "C-" Grade* (November 15, 2022), <https://www.asce.org/publications-and-news/civil-engineering-source/society-news/article/2022/11/15/pennsylvania-civil-engineers-give-the-state-infrastructure-a-c--grade> (In Pennsylvania, “aging infrastructure network and struggling water systems threaten the health, safety and welfare of the region.”); ASCE, 2022 Report Card for New York's Infrastructure, <https://2021.infrastructurereportcard.org/state-item/new-york/> (“New York's transportation network, especially in the New York City metropolitan area, is under immense strain in the context of an environment where needs outweigh available funding.”).

Given the uncertainty, project developers and sponsors would face prolonged carrying costs, exposure to inflation, uncertain service dates, potential contract

renegotiations, and reauthorizations across multiple agencies. Those burdens would increase financing and procurement costs and cascade through supply chains and labor markets. FITCH RATINGS, *North American Infrastructure Projects Challenged by Rising Costs* (October 27, 2025), <https://www.fitchratings.com/research/infrastructure-project-finance/north-american-infrastructure-projects-challenged-by-rising-costs-27-10-2025> (describing rising operating and capital expenses for North American infrastructure projects) (“contractors may be less inclined to enter into fixed-price contracts for new projects due to concerns about escalating costs” and “supply chains may need to be reconfigured, leading to further procurement delays, cost uncertainty, longer project timelines, maintenance shortfalls and operational inefficiencies.”)

This would also impact regional competitiveness. Large-scale infrastructure projects rely on interstate cooperation as demonstrated in this case involving the expansion of Transcontinental’s system in Pennsylvania, New Jersey, and offshore New Jersey and New York waters. If sponsors and investors cannot rely on final approvals issued after full review, they may be discouraged from investing not only in pipeline infrastructure, but in all critical infrastructure projects across various sectors.

Moreover, these costs would not remain with developers and investors of projects alone, but would ultimately be borne by the hospitals, local businesses,

employers, communities, and households that have no role in the permitting process but bear the consequences when infrastructure needs go unmet. Indeed, delays not only impose a strain on utilities that plan for system reliability and impact direct gas consumption, but such uncertainty threatens the viability of the businesses and individual households that rely on energy service and timely infrastructure development.

In short, the limits on a state's role in the water quality certification process protect finality, fairness, and the integrity of environmental review while serving the broader public interest in reliable, affordable energy and regulatory certainty. When the fact-specific record reflects reasoned justification within the governing framework, this Court should not allow Section 401 to be improperly used as a tool for indefinite delay, simply because Petitioners disagree with the NJDEP's and FERC's determinations.

CONCLUSION

For the foregoing reasons, this Court should affirm.

Respectfully Submitted,

*s/ David R. Kott*_____

David R. Kott

McCARTER & ENGLISH, LLP

*Attorneys for Amicus Curiae New Jersey
Business & Industry Association*

Dated: May 4, 2026

COMBINED CERTIFICATIONS

I certify that I am admitted to practice before this Court pursuant to Third Circuit Local Appellate Rule 46.1(e).

I certify that this brief complies with the type-volume limitation excluding the parts of the brief pursuant to Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 3,153 words, excluding the parts of the brief exempt by Federal Rule of Appellate Procedure 32(f). This brief also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in proportionally spaced typeface using Microsoft Office Word 2007 in 14-point Times New Roman font.

Pursuant to Third Circuit Local Appellate Rule 31.1(c), I certify that the text of this electronic brief is identical to the text of the paper copies and that I have scanned the PDF version of this brief using McAfee VirusScan Enterprise version 8.8 and no virus was found.

Date: May 4, 2026

s/ David R. Kott _____

David R. Kott

MCCARTER & ENGLISH, LLP

*Attorneys for Amicus Curiae New Jersey
Business & Industry Association*

CERTIFICATE OF SERVICE

I certify that on May 4, 2026, I caused the foregoing brief to be electronically filed through the ECF system of the United States Court of Appeals for the Third Circuit, which caused counsel of record to be served by ECF.

Date: May 4, 2026

s/ David R. Kott _____

David R. Kott

MCCARTER & ENGLISH, LLP

Attorneys for Amicus Curiae New Jersey

Business & Industry Association