



## **For Immediate Release**

September 28, 2016

### **Contacts:**

Maya van Rossum, the Delaware Riverkeeper, 215 369 1188 ext 102 (rings to cell & office)  
Jordan Yeager, Attorney for Plaintiffs, 215 264 1166

## **Pennsylvania Supreme Court Rules Further on Act 13 Challenge Plaintiffs Environmental, Municipal and Doctor Once Again Set Important Precedent**

*Pittsburgh, Pennsylvania:* In an 88 page opinion written by Supreme Court Justice Todd and joined by Justices Donohue, Dougherty and Wecht, and issued today, the Pennsylvania Supreme Court ruled:

- ✓ Sections 3218.1 of Act 13 which “requires notice by the DEP in the event of a spill of chemicals or waste associated with the fracking process to public water facilities, but not to owners of private wells, violates the prohibition in Article III, Section 32 of the Pennsylvania Constitution against the enactment of “special laws,”” and therefore are unconstitutional and enjoined;
- ✓ “Section 3241 of Act 13, which facially permits any private corporation empowered to transport, sell, or store natural gas or manufactured gas in Pennsylvania to seize subsurface lands of a private property owner for the purpose of storing natural gas therein, violates the Fifth Amendment to the United States Constitution and Article I, Section 10 of the Pennsylvania Constitution by permitting a taking of private property for a private purpose,” and therefore is unconstitutional and enjoined.
- ✓ Enjoins Sections 3305-3309 of Act 13 which allowed the PUC to declare local ordinances regarding oil and gas operations to be in violation of law and invalid and to declare offending municipalities ineligible for impact fees collected from the oil and gas industry, as these provisions are not severable from other provisions already determined by the court to be unconstitutional;
- ✓ Sections 3222.1(b)(10) and (b)(11) of Act 13, otherwise known as the medical gag rule, “which limit health professionals’ access to, and use of, information regarding chemicals used in the hydraulic fracturing process, which has been designated confidential and proprietary information or trade secrets by a vendor, service provider, or well operator,

DELAWARE RIVERKEEPER NETWORK

925 Canal Street, Suite 3701

Bristol, PA 19007

Office: (215) 369-1188

fax: (215) 369-1181

drm@delawareriverkeeper.org

www.delawareriverkeeper.org 1714894.1/45912

violate the prohibitions in Article III, Section 32 of the Pennsylvania Constitution against the enactment of “special laws,” are violation Art III, section 32 of the Pennsylvania constitution as an enactment of special laws and therefore are unconstitutional and enjoined.

“Shale gas extraction is wreaking havoc on communities and the environment. This most recent decision out of the Pennsylvania Supreme Court provides important needed protections from both the oil and gas industry and the government officials that continue to support the industry over the people and our environment. The Delaware Riverkeeper Network, Dr. Kahn, and our municipal partners in this case should not have had to bring and pursue this legal action, but thank goodness we did, because without our efforts, communities and the environment would have lost every shred of their rights to defend themselves and their constitutional rights under the law,” said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network, both co-plaintiffs in the case.

“The decision is another historic vindication for the people’s constitutional rights. The court has made a clear declaration that the Pennsylvania legislature cannot enact special laws that benefit the fossil fuel industry and injure the rest of us,” stated Jordan Yeager, lead counsel on the case representing the Delaware Riverkeeper Network and Bucks County municipalities on the case.

**Background:** Seven municipalities, Maya van Rossum in her capacity as the Delaware Riverkeeper, the Delaware Riverkeeper Network, and Dr. Mehernosh Khan filed the initial legal pleading in Commonwealth Court on March 29, 2012 challenging Act 13, also known as HB1950, which was signed into law by Governor Corbett on February 14, 2012. The municipalities are: Township of Robinson, Washington County; Township of Nockamixon, Bucks County; Township of South Fayette, Allegheny County; Peters Township, Washington County; Township of Cecil, Washington County; Mount Pleasant Township, Washington County; and the Borough of Yardley, Bucks County.

Act 13 amended the Pennsylvania Oil and Gas Act, preempting municipal zoning of oil and gas development. It also established an impact fee on natural gas. The named Appellants are the Commonwealth of Pennsylvania; Pennsylvania Public Utility Commission (“PUC”); Office of the Attorney General of Pennsylvania; and the Pennsylvania Department of Environmental Protection (“DEP”).

The initial decision was issued by the Pennsylvania Supreme Court on December 19, 2013 declaring key provisions of the law as violating various elements of law, including the Article 1, section 27 of the Pennsylvania Constitution.

But provisions of the act remained in dispute, including the medical gag rule, the provision that required notification of spills into public water supply facilities but not the users of private water supplies, and which allowed the taking of private land for use by a private drilling company to inject, store and later remove drilled gas supplies for their private corporate purposes, and the ability of the PUC directly, or at the behest of an oil & gas company to review a local ordinance and declare it as in violation of the law and invalidate it, including collecting attorneys against the offending municipality and to declare them unable to benefit from impact fees collected from the oil & gas industry . Today’s decision responds to these still outstanding issues.

Most recent decision as well as previous rules by the PA supreme court on the case can be found at :

[bit.ly/DRN-Act13Victory](http://bit.ly/DRN-Act13Victory)

#####