

APPELLATE COURT UPHOLDS NJ DEP WAIVER RULE

Appellants oppose ruling, anticipate appeal

TRENTON, NJ – The 28 environmental and labor organizations promised to keep fighting despite the ruling by the Appellate Division of the Superior Court of New Jersey to uphold the NJ Department of Environmental Protection’s Waiver Rule. The groups issued the following joint statement:

“We are greatly disappointed by the ruling issued by the Appellate Court today, and believe the rule should be overturned. Despite the Court’s ruling and the slow trickle of waiver applications submitted thus far, the rule, once finalized, will open the floodgates to wash away environmental protections and represents an overreach of executive power.

The vagueness of the grounds for a waiver application and approval put our environment, workers, and communities at too great of a risk. The statutes and rules that can be waived remain a mystery, despite vigorous questioning by our organizations and the judges. For example, in the ruling, the Appellate Court states that the concept of “net environmental benefit” “...by its nature, def[ies] precise definition.” This statement, coupled with the broad applicability of the rule, should have been grounds for the Court to overturn the rule, and offers too great an opportunity for the rule to be exploited without upholding the mission of the DEP to protect the environment.

However, we are pleased that the court found the guidance documents provided by DEP on its website to be inadequate, and upheld the need for a formal rulemaking process. This determination should delay use of the rule, and we will continue to fight individual waiver applications that are approved while considering an appeal to the NJ State Supreme Court.

In addition, we call on both houses of the State Legislature to use its authority to override the rule. Last year, the State Assembly voted to overturn the rule, but for the override to be effective, both houses must vote twice. It is time for decisive action on this vague and destructive rule.”

Groups signed onto the lawsuit include:

American Littoral Society
Association of New Jersey Environmental Commissions
Clean Ocean Action
Communications Workers of America 1036
Delaware Riverkeeper Network
Edison Wetlands Association
Environment New Jersey
Food & Water Watch
Hackensack Riverkeeper
Health Professional and Allied Employees
Hopewell Valley Citizens Group
New Jersey Audubon Society
NJ Environmental Federation
New Jersey Environmental Lobby
New Jersey Highlands Coalition
New Jersey Public Employees for Environmental Responsibility
NJ State Industrial Union Council
New York/New Jersey Baykeeper
Raritan Headwaters Association
Pinelands Preservation Alliance
Save Barnegat Bay
Sierra Club, New Jersey Chapter
Sourland Planning Council
Stony Brook-Millstone Watershed Association
International Brotherhood of Teamsters Local 877
Union of Rutgers Administrators, American Federation of Teachers Local 1766
United Steelworkers District 4
Work Environment Council of New Jersey

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