



For Immediate Release:  
February 21, 2014

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**Pennsylvania Supreme Court Rejects Corbett Administration's  
Motion for Reconsideration of Act 13 Decision**

*Pittsburgh, Philadelphia, Harrisburg, Pennsylvania:* The Pennsylvania Supreme Court rejected the Corbett Administration's request for reconsideration of the Court's landmark decision which struck as unconstitutional many key provisions of the State's pro-drilling law referred to as Act 13. The reconsideration was opposed by the original challengers to Act 13 on the grounds that State, the Public Utilities Commission and the Pennsylvania Department of Environmental Protection failed to provide any "compelling reasons" for the extraordinary legal relief.

Jordan Yeager, one of the lead attorneys on the case stated, "The Corbett Administration wanted a "do-over". The Supreme Court said "no". Act 13 violated our fundamental Constitutional rights. The Court's landmark ruling stands and we are all safer as a result".

Maya van Rossum, the Delaware Riverkeeper and one of the original petitioners in the case stated, "The State has heard the final word on Act 13 from the highest authority. Once again the primary rights of clean air, water, and a healthy environment for the people of the Commonwealth have been reiterated. We hope the Governor and his administration can now finally accept that they were wrong in their attempt to undo the Court's deliberations. The Governor should listen to what the Court has said and realize that the Court's thoughtful, extensive set of opinions instructs all levels of government to fully adhere to their ruling. This is a great day for Pennsylvania".

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## **Background:**

The Pennsylvania Supreme Court issued its decision on December 19, 2013. In that decision the Pennsylvania Supreme Court ruled that Act 13 violates the Pennsylvania Constitution on the grounds that it violates Article 1, Section 27, the Environmental Rights Amendment. In doing so, the Court held that the right to pure water, clean air, and a healthy environment are fundamental rights that must be given high priority consideration and protection by every level of Pennsylvania's government.

The Court's decision also struck down the shale gas industry's effort to force every municipality in the state to allow gas drilling and related industrial operations in every zoning district. The Court's decision upheld the ability of local governments to protect their local communities and natural resources through zoning.

Chief Justice Castille authored the historic majority opinion. Justices Todd, McCaffrey and Baer joined in the result.

Justices Castille, Todd, and McCaffrey held that provisions of the law violate Article I, Section 27 of the Pennsylvania Constitution – the Environmental Rights Amendment. Justice Castille stated that “we agree with the citizens that, as an exercise of the police power, Sections 3215(b)(4) and (d), 3303, and 3304 are incompatible with the Commonwealth's duty as trustee of Pennsylvania's public natural resources.”

In discussing Section 3304's uniform zoning provisions, Justices Castille, Todd, and McCaffrey agreed that the provisions “sanctioned a direct and harmful degradation of the environmental quality of life in these communities and zoning districts.” They also concluded that the Act forced some citizens to bear “heavier environmental and habitability burdens than others,” in violation of Section 27's mandate that public trust resources be managed for the benefit of all the people.

Justice Baer concurred in finding Act 13 unconstitutional, agreeing with the Commonwealth Court's reasoning. Justice Baer stated that the provisions “force municipalities to enact zoning ordinances, which violate the substantive due process rights of their citizenries.” He further noted “Pennsylvania's extreme diversity” in municipality size and topography and that zoning ordinances must “give consideration to the character of the municipality,” among other factors, which Act 13 did not.

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

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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”).

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