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Municipal Right to Control Natural Gas Drilling in Pennsylvania

Pennsylvania Supreme Court, Western District – An Amicus Brief was filed July 8 by Nockamixon Township, Delaware Riverkeeper Network, American Littoral Society and the Damascus Citizens for Sustainability in support of two Pennsylvania towns who have filed appeals to the state’s Supreme Court. Oakmont Borough, Allegheny County and Salem Township, Westmoreland County have asked the high court to overturn lower court decisions that prohibit municipalities from establishing local ordinances regulating natural gas drilling within their borders.

The Court is considering the extent to which the state Oil and Gas Act preempts local ordinances. The townships, including Nockamixon Township, Bucks County, want to regulate aspects of natural gas extraction in order to protect their residents and natural and public resources. Range Resources and Huntley and Huntley natural gas developers challenged the right of the townships to apply municipal ordinances, given the State law.

The advent of natural gas well drilling and development in the Marcellus shale formation of the Upper Delaware River Watershed has taken the region by storm with the recent signing of hundreds of leases for wells on private land in both Pennsylvania and New York. Environmental concerns center on the degrading impacts of natural gas development on water resources, both quantity and quality, on habitat and other natural watershed features.

The legal filings document that towns are attempting to control where natural wells are drilled and storage ponds are placed in order to prevent the damages to their communities from associated stormwater runoff, and impacts to public property and natural values.

“The proposed natural gas extraction threatens irreversible damage to the environment, culture and communities of the Upper Delaware Wild and Scenic River, and the drinking water supply for over 17 million”, said Delaware Riverkeeper Maya van Rossum. “We are fighting to support the municipalities’ rights to protect their own environment and communities against self-serving private interests and corporate control”, said van Rossum. Barbara Arrindell of Damascus Citizens agrees and further states that “The gas drilling process itself is intrinsically polluting.”

Elizabeth Koniers Brown, attorney for Delaware Riverkeeper Network, stated “The Environmental Rights Amendment to the Pennsylvania Constitution gives citizens the right to clean air, pure water and environmental preservation. Municipalities have a role to play in protecting these rights.”

Jordan Yeager, attorney for Nockamixon Township, stated “We must be able to regulate land uses in the township based on local officials’ knowledge of the municipality’s character, its citizens’ needs and the special nature of its resources. State laws recognize the role for municipalities in protecting the environment and locally elected leaders need to be able to carry out their powers and responsibilities without interference.”

The amicus brief was filed on July 8 in the Supreme Court of Pennsylvania, Western District. For a copy of the brief, contact Delaware Riverkeeper Network. For more information about natural gas development, go to www.delawareriverkeeper.org and www.damascuscitizens.org

Delaware Riverkeeper Network is a nonprofit, advocacy organization dedicated to protection and restoration of the Delaware River. Damascus Citizens Alliance is a nonprofit grassroots organization that began in Wayne County and is committed to environmental issues. Both groups are actively engaged in the environmental issues raised by the natural gas industry in the State.

Delaware Riverkeeper Network: The Delaware Riverkeeper, backed by the Delaware Riverkeeper Network, staunchly champions the needs of the Delaware river and in so doing ensures its unfettered ability to protect and provide for all the human and nonhuman communities that appreciate and depend upon it. DRN is supported by over 7000 members throughout the River’s Watershed; its office is located in Bristol Borough, Bucks County, PA.

Damascus Citizens for Sustainability (“DCS”): A grassroots organization started in Damascus, PA. DCS engages in advocacy to protect private property, the public health and the integrity of the Upper Delaware River Basin; public action to organize local communities into activists and to form partnerships to achieve collective goals; legal action to enforce the Pennsylvania constitution and the “Wild and Scenic Rivers” Act; public education; and monitoring by volunteers in the Upper Delaware River region.”