



June 3, 2019

Pennsylvania House of Representatives

Re: Opposition to HB827

Dear Representative,

Delaware Riverkeeper Network is writing today to reiterate our steadfast opposition to HB827, legislation cited as “Designating certain activity by the Delaware River Basin Commission as the exercise of the power of eminent domain that entitles the owners of the property in question to appropriate and just compensation.” This bill, passed through the committees is now set for a vote on the floor of the House. We are urging you, as Pennsylvania’s Representatives pledged to defend our rights and the rule of law, to vote no if the bill is offered for a final vote or, alternatively, to entirely remove the bill from consideration.

We base our opposition on the following:

1. The Delaware River Basin Commission (DRBC) has authority to make decisions regarding the water resources of the Delaware River Watershed based on the Delaware River Compact, the DRBC’s Special Protection Waters Program, and regulations adopted in its Comprehensive Plan and its Rules of Practice and Procedure. The Compact is agreed to by the four states in the Basin and the federal government: Pennsylvania, New York, New Jersey, Delaware and the Army Corps of Engineers. HB827 would violate the Compact and principles of federalism, as a state cannot unilaterally impose requirements on an interstate compact commission.
2. HB827 would violate the separation of powers doctrine, as it is the role of the courts, not the legislature, to determine whether a regulation constitutes a taking.
3. DRBC is considering a ban on high volume hydraulic fracturing in the Delaware River Basin through their standard regulatory process. All actions of the DRBC on these proposed regulations have been carried out according to their rules and established process.
4. Furthermore, government agencies, including DRBC, make decisions that impact land use, water resources, and property as a matter of course. It would be impossible to carry out government functions without regulations that effect what activities can and cannot occur on

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land, including on private property. It is a matter of settled law that these functions are proper and necessary to protect the public and the environmental resources.

We respectfully request that you VOTE NO on HB827, without amendment.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in blue ink that reads "Maya K. van Rossum". The signature is written in a cursive style with a long horizontal line extending to the right.

Maya K. van Rossum
the Delaware Riverkeeper
keepermaya@delawariverkeeper.org

A handwritten signature in blue ink that reads "Tracy Carluccio". The signature is written in a cursive style with a long horizontal line extending to the right.

Tracy Carluccio
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