



March 24, 2019

Hon. Daryl D. Metcalfe, Chairman
Hon. Greg Vitali, Democratic Chair
Members, Committee on Environmental Resources and Energy
Pennsylvania House of Representatives

Re: COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HB827

Dear Chairman Metcalfe, Democratic Chair Vitali and Committee Members,

We are opposed 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.”

Our opposition is based 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. 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 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 and the Committee do not approve HB827 and not allow any further advancement of this bill through the legislative process.

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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