



For Immediate Release:

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**Delaware Riverkeeper Network Statement regarding DRBC
Notice about Gibbstown Hearing**

Today, April 15, the Delaware River Basin Commission (DRBC) announced a new adjudicatory Hearing date and process regarding the legal reconsideration of DRBC's approval of the Gibbstown LNG export facility Dock 2 project. The Delaware Riverkeeper Network formally appealed the DRBC's June 12, 2019 approval of the Gibbstown LNG export facility on July 11, 2019. The approval by the DRBC Commissioners of the Delaware Riverkeeper Network appeal resulted in the granting of the formal adjudicatory hearing now underway. The adjudicatory hearing was originally scheduled for April 15, 2020, but due to the COVID-19 emergency, has been rescheduled to begin on May 11. The hearing has also been changed to a "virtual" hearing to be conducted remotely. See the DRBC announcement here: https://www.nj.gov/drbc/meetings/adjudicatory-hearing_DRP.html

What was not announced with the DRBC notice issued today was that the written public comment process regarding the appeal is also changing.

Our understanding is that written public comments submitted through the DRBC's web-based comment system, starting as of April 14, 2020, will be handled differently than the public comments submitted from the opening of public comment on March 2 until April 13. Written comment submitted April 14 through to the end of the public comment period on April 24 could, upon request by one of the parties and approval of the Hearing Officer, be subject to examination and cross-examination by the attorneys for Delaware River Partners - the builders of the Gibbstown LNG Terminal - and Delaware Riverkeeper Network. The Delaware Riverkeeper Network is concerned that this change, which could allow a commenter to be brought up for examination in an adversarial setting at the adjudicatory hearing, will intimidate potential commenters concerned about the Gibbstown LNG facility due to the uncertainty of the process and the threat of cross-examination.

Questions that have already been raised by the Delaware Riverkeeper Network on behalf of the public, but that have not yet been answered regarding the change in how written public comments will be handled, include:

1. Will commenters now be required to defend their written comments or will they have the option to withdraw their comments if they do not want to appear for examination/cross-examination?
2. Will commenters need to retain legal counsel to represent them in the proceedings if they are called for examination/cross examination?
3. Will there be a penalty if a commenter decides not to appear for examination or cross-examination if called?
4. Does participating in this process raise any sort of legal jeopardy for participants?

These and other questions regarding how written public comments will be handled and how people will be treated remain unanswered at the time of the DRBC's announcement about the changed Hearing logistics today.

There has been tremendous discussion about how this adjudicatory hearing should proceed and it is stunning to us that the DRBC has changed the public process midstream, in such a way as to have a direct impact on public comment and engagement during this hearing process.

Delaware Riverkeeper Network has demanded transparency throughout the entire process regarding the review and approval of the Gibbstown LNG export facility. This recent upending of the written public comment process is just the most recent demonstration of how the DRBC has failed to accommodate and protect the full, fair and safe opportunity for the public to comment.

The Delaware Riverkeeper Network is working to fully understand the ramifications of the DRBC's public notice and how the public's interests can best be accommodated and protected.

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