



For Immediate Release
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Contacts:

Maya van Rossum, the Delaware Riverkeeper, 215-801-3043

Tracy Carluccio, Deputy Director, 215-692-2329, tracy@delawareriverkeeper.org

Pennsylvania Commonwealth Court Rules In Favor of Delaware Riverkeeper Network

Court rules against PADEP request to dismiss PFAS “Forever Chemicals” Petition

Today the Commonwealth Court of Pennsylvania issued a Memorandum and Order denying the PA Department of Environmental Protection’s (DEP) request to dismiss the Delaware Riverkeeper Network’s (DRN) case against the agency regarding per- and polyfluoroalkyl substances (PFAS). DRN submitted a Petition to the Environmental Quality Board (EQB) in 2017 seeking to have DEP adopt a safe drinking water standard, also called a maximum contaminant level (MCL), for Perfluorooctanoic acid (PFOA), one of the most commonly found and highly toxic PFAS compounds. The EQB unanimously accepted the petition in 2017 but DEP failed thereafter to take action in response. In 2019, DRN sued DEP for failing to respond to the organization’s Petition and to take affirmative action to protect communities from the threat presented by PFOA. Earlier this year, the Commonwealth Court dismissed some of DRN’s claims, including a challenge under the Environmental Rights Amendment. DRN petitioned for leave to appeal that ruling in April 2021.

Meanwhile, DEP asked the Commonwealth Court to find DRN’s case moot since they have now, as of summer 2021, begun the process of adopting an MCL for PFOA. But DRN answered their request by pointing out that DEP’s **delayed** response was not addressed and that it was imperative that petitioners know what they are required to do when filing a petition. The Court agreed.

The Court denied PADEP/EQB’s Application for Relief in the Nature of a Motion to Dismiss, finding it “apparent that, from the inception of this matter, Riverkeeper sought both a response by DEP to the Rulemaking Petition and a declaration from this Court as to whether Respondents have responded appropriately to the Rulemaking Petition. Although DEP has responded to the

Rulemaking Petition, the question of whether its response was appropriate remains outstanding. As such, it does not appear that this matter is moot.”

“Delaware Riverkeeper Network did everything possible to move DEP through the EQB petition process to address the contamination of the Commonwealth’s drinking water with PFOA. DEP stonewalled our efforts by neglecting to respond as the regulations require. We are vindicated today that the insufferable delay by DEP to respond to our petition for action on PFOA will be addressed by the Court and not set aside as DEP requested. The public needs to know how to use the petition process to progress important environmental issues and the Court has rightfully recognized our rights. This important victory benefits all Pennsylvanians, as will the final clarifying ruling regarding the petition process and the role of Pennsylvania’s environmental rights amendment,” **said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.**

“Today the people have won in the important pursuit of a fair and reliable response from DEP when petitioning for action from our government. The need for a protective drinking water standard that would require the removal of PFOA from our drinking water was urgent in 2017 when we filed our petition. It was urgent in 2019 when we went to court to press for action from DEP on the need to remove this highly toxic compound from drinking water in Pennsylvania. Inexcusably, years have passed while people continued to drink water contaminated with PFOA, endangering their health. DEP ignored the process that they are supposed to follow as if regulations and the public’s use of this important legal mechanism was irrelevant. However, this ruling today proves that DEP cannot make it up as they go along, they must have a consistent and reliable way of considering the public’s will. We will continue our diligent effort to ensure DEP must respond to the public petition process,” **said Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network.**

Read a copy of the ruling here: <https://bit.ly/3f2R8ap>

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