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PA GOP Senators Suit Dismissed
Suit Sought to Overturn Moratorium on Fracking in Delaware River Basin

U.S. District Court for the Eastern District of Pennsylvania - Today the U.S. District Court for the Eastern District of Pennsylvania dismissed a lawsuit brought by State Senators Gene Yaw and Lisa Baker, the Pennsylvania Senate Republican Caucus, Damascus Township, Dyberry Township, Wayne County, and Carbon County challenging the de facto moratorium that existed on gas drilling, fracking, and related operations in the Delaware River Watershed as well as the Delaware River Basin Commission's subsequent rule prohibiting high-volume hydraulic fracturing within the Basin. The Delaware Riverkeeper Network and the Delaware Riverkeeper Maya van Rossum successfully intervened in the case on February 25, 2021 and shortly thereafter filed a Motion to Dismiss the federal lawsuit filed on January 11, 2021 against the Delaware River Basin Commission (DRBC). Motions to dismiss were also filed by the DRBC, Democratic Senator Intervenors & Bucks and Montgomery Counties.

"We are pleased, but not surprised, that the court dismissed the case ruling that the Senators and others do not have standing. In every attempt by Senators Yaw and Baker to intervene in ongoing litigation in order to strike down fracking protections provided to the Delaware River watershed, they have stretched the bounds of the truth, the law, and their authority as legislators. Rather than trying to strip away protections from the ravages of fracking, the Senators should be joining with Senators Santarsiero, Comitta, Cappelletti, Collett, Fontana, Haywood, Hughes, Kane, Kearney, Muth, Sabatina, Saval, Schwank, Street, Tartaglione, and Williams defending these critical protections and seeking to secure protections for all Pennsylvania communities from the ravages of fracking. Fracking is inflicting devastating environmental, health, safety and economic consequences across the Commonwealth; it is important we learn from these experiences by continuing the strong protections provided for the Delaware River watershed while at the same time putting in place a moratorium against ongoing fracking in other Pennsylvania watersheds. We have proven fracking is not safe for our watershed and communities, and at the same time demonstrated it is not safe for any watershed or community. Senators Yaw and Baker need to stand up for the people, not the industry," **said Maya K. van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.**

In its Motion to Dismiss, the Delaware Riverkeeper Network claimed the plaintiff parties to the Pennsylvania Senate Republican Caucus lawsuit lack standing because they are not suffering any requisite harm. DRN also skewered the plaintiffs for perversely employing Article 1, Section 27 of the Pennsylvania Constitution, known as the Environmental Rights Amendment. The Motion to Dismiss stated that the Municipal Plaintiffs subverted their roles as trustees by “promoting heedless economic motivations that the citizens of the Commonwealth overwhelmingly voted to thwart by adopting the Environmental Rights Amendment”.

Background:

The DRBC is comprised of the four states with lands and tributaries within the Delaware River Watershed – New York, New Jersey, Pennsylvania, and Delaware, and a representative of the federal government from the U.S. Army Corps of Engineers. The five voting members of the DRBC make the policy decisions that guide the DRBC, vote on regulations and review and approve or deny permits for projects, called “dockets”, at regularly scheduled public meetings.

The moratorium was put in place by a unanimous vote of the Commissioners in 2010. The de facto moratorium on gas drilling, fracking, water withdrawals, and wastewater discharges from fracking throughout the Delaware River Watershed was nearly ended in 2011 when the DRBC Commissioners were set to vote on gas drilling regulations that would have allowed gas drilling and related operations to start. However, the Governors expressed opposition to the allowance of fracking in the hours leading up to the vote, citing water quality concerns, and a moratorium has been in place since then.

Delaware Riverkeeper Network and an active coalition of organizations have advocated with the public for stopping any shale gas development from commencing in the basin for more than a decade and have rallied continuously for a full ban on fracking in the Delaware River Watershed, including a ban on frack wastewater processing and discharges and water withdrawals from the river to fuel fracking anywhere. On February 25, 2021, the DRBC voted to permanently ban fracking in the Delaware River Watershed. Action was also taken in a second resolution towards the proposal of regulations covering the import and export of frack wastewater and water for fracking, which could lead to the adoption of a ban on the import of wastewater produced by fracking for its processing and discharge here and the export of water from the basin for use in fracking outside of the watershed.

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