



**For Immediate Release:** September 21, 2018

**Contacts:**

Maya van Rossum, The Delaware Riverkeeper, Delaware Riverkeeper Network, 215-801-3043 (cell)

**Developer Requests Reargument in SLAPP Suit Against Environmental Opposition  
*SLAPP Suit Previously Struck Down by Superior Court***

**Chester County, PA:** September 20, 2018, developer Brian O'Neill and his corporate counterparts O'Neill Developers and Constitution Drive Partners, filed a rehearing request with the Pennsylvania Superior Court, urging the court to reconsider their September 6, 2018 dismissal of a SLAPP suit (strategic lawsuit against public participation) filed against the Delaware Riverkeeper Network, Maya van Rossum the Delaware Riverkeeper, and threatening to add numerous unnamed residents.

O'Neill and his counterparts filed the original SLAPP action on June 27, 2017 in the Court of Common Pleas in Chester County. Judge J. Sommers presiding over the case dismissed the suit on August 22, 2017, determining that van Rossum and the Delaware Riverkeeper Network were engaged in **"constitutionally protected free speech under the First Amendment of the United States Constitution and the Pennsylvania Constitution."**

O'Neill and his counterparts appealed the August 22, 2017 decision. In response Judge Sommers issued a follow-up opinion in which the judge stated that the complaints filed against van Rossum and the Delaware Riverkeeper Network "lack merit." The court also questioned the complaint itself, saying, **"While we question the "good faith" of Appellants in bringing the instant lawsuit and subsequent appeal,** we will address the complaints,..." The opinion also stated that Mr. O'Neill et al. had **"commenced this action as a means of intimidation and harassment,** not because Appellants believe in the success of their claims."

On September 6, Judge Bender and Judge Lazarus of the PA Superior Court dismissed the appeal determining there weren't any procedural issues of concern, that van Rossum and the Delaware Riverkeeper Network had been truthful in the positions they were taking and that the statements O'Neill was complaining about were not false, and that the advocacy van Rossum, the Delaware Riverkeeper Network and the community were engaged in were out of a genuine concern for impacted communities and the environment.

DELAWARE RIVERKEEPER NETWORK  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (215) 369-1188  
fax: (215) 369-1181  
dm@delawareriverkeeper.org  
www.delawareriverkeeper.org

The Delaware Riverkeeper Network, Maya van Rossum the Delaware Riverkeeper, and concerned community members have been actively challenging a proposal by O’Neill, O’Neill Developers and Constitution Drive Partners to advance only a partial clean up of the highly contaminated site known as Bishop Tube, located in East Whiteland Township, in order to accommodate construction of a more than 200 unit housing development.

“This reargument request is just part of the ongoing effort to silence, through intimidation, myself, my organization and the residents,” said **Maya van Rossum, the Delaware Riverkeeper**. “The Delaware Riverkeeper Network and the residents of East Whiteland are using our First Amendment rights to free speech to stand up for our environment, health, safety, and property rights. The Courts have found this SLAPP suit to be without merit and we are confident that the next decision out of the courts will do the same.”

### **Background: Bishop Tube site**

The Bishop Tube Site is a former metals processing plant located in East Whiteland Township, PA. The site is bordered by Little Valley Creek, a tributary to the “Exceptional Value” Valley Creek. Portions of the site proposed for development are wooded. The site is listed on the Pennsylvania Priority List of Hazardous Sites for Remedial Response under the Pennsylvania Hazardous Sites Cleanup Act (HSCA). Groundwater, soil and surface water at the Site are contaminated with trichloroethylene (TCE), which is classified as a probable human carcinogen by the EPA and also as causing other significant health problems. Other contaminants of significant concern are also known to be present at the site.

A copy of the Superior Court’s decision can be found at:

<http://cqcengage.com/delawariverkeeper/file/wrT6mNqV0oP/memorandum%20%20affirmed%20%2010368955841632902.pdf>

A copy of the court of Common Pleas confirming decision on 10.23.2017 can be found at:

<http://www.delawariverkeeper.org/sites/default/files/Chester%20County%20Judge%20Issues%20Opinion%20on%20SLAPP%20Suit%20Dismissal%20%282017-10-24%29.pdf#page=3>

A copy of the court of Common Pleas original decision can be found at: [http://bit.ly/DRN-](http://bit.ly/DRN-SLAPPSuitCourtDecision8-22-17)

[SLAPPSuitCourtDecision8-22-17](http://bit.ly/DRN-SLAPPSuitCourtDecision8-22-17)

###

*[Delaware Riverkeeper Network \(DRN\)](#) is a nonprofit membership organization working throughout the 4 states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.*