



For Immediate Release
July 26, 2012

Contacts: Maya van Rossum, the Delaware Riverkeeper : 215-801-3043
Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network (office): 215-369-1188 x104
(mobile): 215-692-2329
Jordan Yeager, Legal Counsel: 267-898-0570

Pennsylvania Commonwealth Court Strikes Down Act 13's Municipal Preemption **Statewide zoning provisions of Act 13 found unconstitutional**

Commonwealth of Pennsylvania – The Commonwealth Court issued its opinion this morning and declared the state-wide zoning provisions in Act 13 unconstitutional, null, void and unenforceable. The Court also struck down the provision of the law that required DEP to grant waivers to the setback requirements in Pennsylvania's Oil and Gas Act.

The legal team is still analyzing the decision and will discuss the ruling further after conferencing later today.

"The Court has recognized that the Pennsylvania legislature and Governor Corbett went too far. This is a great victory for the people of Pennsylvania, for local democracy, for property rights, for our public health, and for the clean water supplies on which we all depend," said Jordan Yeager, attorney for plaintiffs Delaware Riverkeeper Network, Nockamixon Township and Yardley Borough.

Maya van Rossum, the Delaware Riverkeeper, stated "This is why we brought Act 13 to the Court – to petition for fairness and to fight off the heavy hand of gas and oil interests who wanted complete and utter control of every corner of every community in the state. Pennsylvania and the environment we all depend on have won today." "This court decision did what the Legislature and the Commonwealth's government did not do – recognize that municipalities need to act to protect their residents and that under the Law we have a right to that protection and will fight for it. This decision proves the fight is well worth it," concluded van Rossum.

"Not only has the Court recognized that the law was unconstitutional because of the illegal preemption of municipal zoning but it also recognized the untenable waiver provisions in Act 13, which allowed drillers to have setback provisions in the law (required distances between gas wells

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

and homes, for instance) removed completely, a nightmare that made Act 13 one of the worst pieces of environmental legislation ever passed by the state Legislature,” said Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network. “This is a great start to addressing the lack of protection for public health and the environment from oil and gas activities here in Pennsylvania,” added Carluccio.

Here is the decision: http://www.pacourts.us/OpPosting/Cwealth/out/284MD12_7-26-12.pdf

The legal challenge to the Chapter of Act 13 that took over municipal zoning of oil and gas operations was challenged by Delaware Riverkeeper Network and seven municipalities: Township of Robinson, Washington County; Township of Nockamixon, Bucks County; Township of South Fayette, Allegheny County; Peters Township, Washington County; Township of Cecil, Washington County; Mount Pleasant Township, Washington County; and the Borough of Yardley Bucks County. A doctor from southwestern Pennsylvania also was a plaintiff, Dr. Mehernosh Khan. Unfortunately the Court did not reach the physician gag rule issue, finding the doctor did not have standing. Counsel for Petitioners are John M. Smith, Esq., Jonathan M. Kamin, Esq., Jordan B. Yeager, Esq., William A. Johnson, Esq., and Susan Kraham of the Environmental Law Clinic, Columbia University School of Law.

A copy of the original pleadings in the case can be found at:

<http://www.scribd.com/doc/87252080/Act-13-Challenge>

For information on how local governing bodies can express support for the challenge to Act 13: <http://www.delawareriverkeeper.org/act-now/urgent-details.aspx?Id=102>

###