



For Immediate Release

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Contacts:

Jordan Yeager, Attorney for Plaintiffs, 215 254 1166

Maya van Rossum, the Delaware Riverkeeper, 215 369 1188 ext 102 (rings to cell & office)

**Citizens Challenge State's Request for Reconsideration
of Supreme Court Ruling on Act 13**

Pittsburgh, Philadelphia, Harrisburg, Pennsylvania: In a 19page brief, the original challengers of the Act 13 legislation today opposed the State's request for reconsideration of the Pennsylvania Supreme Court's landmark decision which struck as unconstitutional many key provisions of the State's pro-drilling law referred to as Act 13. According to the filed brief, the State and the Public Utilities Commission and the Pennsylvania Department of Environmental Protection failed to provide any "compelling reasons" for the extraordinary legal relief.

According to Jordan Yeager, one of the lead attorneys on the case: "The Court got it right. Act 13 violated the people's constitutionally guaranteed right. The Corbett administration doesn't deserve a 'do over.' Before the case was decided, the Corbett administration argued that it could be decided without a trial. Now that the case didn't go their way they claim that they need a trial. Courts don't allow parties to change arguments like that, and we are confident that the Supreme Court will reject the Corbett administration's request." Mr. Yeager joined the case as attorney for the Delaware Riverkeeper Network, the Delaware Riverkeeper Maya van Rossum, and the Towns of Yardley and Nockamixon, both located in Bucks County.

Says Maya van Rossum, the Delaware Riverkeeper, and one of the original petitioners in the case: "It borders on the absurd that the Pennsylvania Department of Environmental Protection would be challenging a Supreme Court decision that established pure water, clean air and a healthy environment as fundamental rights of present and future generations protected by the State Constitution. The Supreme Court took over a year, and a very thoughtful set of opinions to

articulate their legal reasoning for their decision – for the State to suggest to the Court that it misunderstood the facts or the law, so much so that it should not just reconsider its decision but vacate portions of it, shows a continuing disregard and disrespect for the Court and further demonstrates that the Governor and its agencies are willing to go to any lengths to service the shale gas industry, even at the sacrifice of Pennsylvania’s children, families, residents and environment.” To view Maya’s verbal statement on the request for reconsideration go to: http://bit.ly/statement_to_act13_request.

The Pennsylvania Supreme Court issued its decision on December 19, 2013. In that decision the Pennsylvania Supreme Court ruled that Act 13 violates the Pennsylvania Constitution on the grounds that it violates the Environmental Rights Amendment. In doing so, the Court held that the right to pure water, clean air and a healthy environment are fundamental rights that must be given high-priority consideration and protection by every level of Pennsylvania’s government. The Court’s decision also struck down the shale gas industry’s effort to force every municipality in the state to allow gas drilling and related industrial operations in every zoning district. The Court’s decision upheld the ability of local governments to protect their local communities and natural resources through zoning. Chief Justice Castille authored the historic majority opinion. Justices Todd, McCaffrey and Baer joined in the result.

Justices Castille, Todd, and McCaffrey held that provisions of the law violate Article I, Section 27 of the Pennsylvania Constitution – the Environmental Rights Amendment. Justice Castille stated that “we agree with the citizens that, as an exercise of the police power, Sections 3215(b)(4) and (d), 3303, and 3304 are incompatible with the Commonwealth’s duty as trustee of Pennsylvania’s public natural resources.” In discussing Section 3304’s uniform zoning provisions, Justices Castille, Todd, and McCaffrey agreed that the provisions “sanctioned a direct and harmful degradation of the environmental quality of life in these communities and zoning districts.” They also concluded that the Act forced some citizens to bear “heavier environmental and habitability burdens than others,” in violation of Section 27’s mandate that public trust resources be managed for the benefit of all the people.

Justice Baer concurred in finding Act 13 unconstitutional, agreeing with the Commonwealth Court’s reasoning. Justice Baer stated that the provisions “force municipalities to enact zoning ordinances, which violate the substantive due process rights of their citizenries.” He further noted “Pennsylvania’s extreme diversity” in municipality size and topography and that zoning ordinances must “give consideration to the character of the municipality,” among other factors, which Act 13 did not.

Background: Seven municipalities, Maya van Rossum in her capacity as the Delaware Riverkeeper, the Delaware Riverkeeper Network, and Dr. Mehernosh Khan filed the initial legal pleading in Commonwealth Court on March 29, 2012 challenging Act 13, also known as HB1950, which was signed into law by Governor Corbett on February 14, 2012. The municipalities are: 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.

Act 13 amended the Pennsylvania Oil and Gas Act, preempting municipal zoning of oil and gas development. It also established an impact fee on natural gas. The named Appellants are the Commonwealth of Pennsylvania; Pennsylvania Public Utility Commission (“PUC”); Office of the Attorney General of Pennsylvania; and the Pennsylvania Department of Environmental Protection (“DEP”).

The Decision and concurring opinion can be found at:

http://bit.ly/act13_decision

http://bit.ly/act13_concur

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