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**Municipalities, Delaware Riverkeeper Network, 32 Amici go to
Pennsylvania Supreme Court to Defend Commonwealth Court Decision
that Act 13 is Unconstitutional**

Wave of Dissent Sweeps into Highest Court to Protect Municipal Rights from Gas Industry Takeover

Pittsburgh, PA – The Pennsylvania Supreme Court heard argument today that Pennsylvania’s Act 13 is unconstitutional, unjustly supersedes all local ordinances related to oil and gas operations, extinguishes municipal zoning of these operations, and exposes the public and the environment to pollution and degradation from these activities. Attorneys for the case appeared before the Court, which heard the Commonwealth’s appeal of the Commonwealth Court’s declaration that overturned the municipal preemption provisions and environmental waiver provisions of Act 13.

“We believe Act 13 clearly violates the Pennsylvania constitution and makes it impossible to carry out the responsibilities of elected office,” said **Brian Coppola, Supervisor, Robinson Township**, and one of the original petitioners in the legal challenge to Act 13.

“Ample legal precedent (i.e., the Huntley case) and stakeholder support (i.e., amicus briefs filed by PSATS, PSAB, PA Planners, etc.) exists to ensure that the Pennsylvania Supreme Court will properly uphold the bipartisan decision rendered by the learned Commonwealth Court in late July,” said **Deron Gabriel, President, South Fayette Township Board of Commissioners**.

“As the Commonwealth Court recognized, the legislature and Governor completely overreached in enacting Act 13. Act 13 deprives citizens of their democratic rights to local government, violates property rights protected by locally enacted zoning ordinances, and jeopardizes public health. We are confident that the Pennsylvania Supreme Court will agree and uphold the Commonwealth Court’s well-reasoned decision,” said **Jordan Yeager, Esq., attorney for the Petitioners challenging Act 13**.

Maya van Rossum, the Delaware Riverkeeper, said, “The gas industry interests thought they could just march all over everything and everybody that was in their way, but together we fought them back and now have our day before the Supreme Court, where we have every expectation of fairness and

justice. Pennsylvania is undergoing the largest drilling campaign in its history, and municipalities need to be able to have a say over these dangerous and polluting activities within their borders.”

"Clean Water Action is proud to join 19 other organizations in filing an amicus in support of the lawsuit against Act 13. The zoning provision of Act 13 is nothing more than an attack on municipalities who attempted to protect their residents and community by exercising their longstanding power. By caving to the demands of special interests, our governor and legislature have enacted a dangerous policy that threatens the safety and security of our homes and schools by allow drilling to occur in all areas, including residential. Clean Water Action hopes the Pennsylvania Supreme Court will uphold the Commonwealth Court’s ruling and restore zoning power regarding natural gas operations to local governments,” said **Steve Hvozdoich, Marcellus Shale Policy Associate with Clean Water Action.**

“The Pittsburgh City Council stands in support of the municipalities fighting to defend their local zoning rights,” said **Pittsburgh City Councilman William Peduto.** “The ability to create zoning rules to protect the health, safety, and welfare of our residents is one of the most important roles of a city and its elected representatives and it is critical that we safeguard it.”

Background:

Seven municipalities, Delaware Riverkeeper Network, and Dr. Mehernosh Khan filed a 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 amends the Pennsylvania Oil and Gas Act, preempting municipal zoning of oil and gas development. It also establishes 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 Petitioners argued that Act 13 is an unconstitutional violation of: 1) Article I, Section 1 of the Pennsylvania Constitution; 2) Section 1 of the 14th Amendment to the United States Constitution; 3) Article III, Section 32 of the Pennsylvania Constitution; 4) Article I, Section 27 of the Pennsylvania Constitution; 5) Article III, Section 3 of the Pennsylvania Constitution; 6) Due Process Principles; and 7) The Doctrine of Separation of Powers. The legal challenge was considered essentially important for the Appellees because Act 13 guts local zoning of gas and oil operations and endangers public health, natural resources, communities and the environment.

On July 26, the Commonwealth Court declared the statewide 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.

Entities Challenging Act 13

Original Petitioners in Legal Challenge

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
Borough of Yardley, Bucks County
Delaware Riverkeeper Network and the Delaware Riverkeeper
Dr. Mehernosh Khan

Municipalities represented by Natural Resources Defense Council as Friends of the Court

Wilkins Township, Allegheny County
East Finley Township, Washington County
Tinicum Township, Bucks County
Municipality of Murrysville, Westmoreland County
Municipality of Monroeville, Allegheny County
Borough of Bell Acres, Allegheny County
City of Bethlehem, Northampton and Lehigh Counties

Other Amicus Briefs filed in support of Commonwealth Court decision

Pennsylvania Chapter of the American Planning Association
Pennsylvania State Association of Boroughs
Pennsylvania State Association of Township Supervisors
Pittsburgh City Council
Mountain Watershed Association

Nonprofit organizations represented by Earthjustice as Friends of the Court

Berks Gas Truth
Brockway Area Clean Water Alliance
Clean Air Council
Clean Water Action
Damascus Citizens for Sustainability
Earthworks, Environmental Defense Fund
Gas Drilling Awareness Coalition of Luzerne County PA
Group Against Smog and Pollution
Pennsylvania Division of the Izaak Walton League
League of Women Voters of Pennsylvania
Lehigh Valley Gas Truth, Local Authority Western PA
Marcellus Outreach Butler
Marcellus Protest
PennEnvironment

Responsible Drilling Alliance
Sierra Club
Thomas Merton Center
Westmoreland Marcellus Citizen's Group

Local Government Units that adopted resolutions of letters of support for legal challenge and/or in support of Commonwealth Court decision

Allegheny County

Allegheny County Council
Baldwin Borough
Ben Avon Borough
Emsworth Borough
Findlay Township
Forest Hills Borough
Greentree Borough
Homestead Borough
Jefferson Hills Borough
Mount Lebanon Borough
Monroeville
Moon Township
City of Pittsburgh
Scott Township
West Deer Township
West Homestead
Whitehall Borough
Wilkins Township
Wilkesburg Borough
Allegheny County Council

Beaver County

Hanover Township
South Heights Borough

Berks County

Alsace Township
Greenwich Township
Kutztown Borough
Lower Alsace Township
Maidencreek Township
Mount Penn Borough
City of Reading
West Reading Borough

Bucks County

Bridgeton Township
Chalfont Borough
Doylestown Borough
Doylestown Township
Falls Township
Morrisville Borough
Northampton Township
Pennel Borough
Riegelsville Borough
Tinicum Township
Tullytown Borough

Butler County

Buffalo Township
Butler Township
Harmony Borough
Middlesex Township

Chester County

City of Coatesville
Newlin Township

Delaware County

Radnor Township
Yeadon Borough

Fayette County

City of Connellsville
Fayette County Council

Greene County

Gray Township

Lackawanna County

Lackawanna Association of Boroughs

Luzerne County

Black Creek Township
Dallas Township
Hazle Township
Luzerne County Council
Sugarloaf Township

Mercer County

Springfield Township

Montgomery County

East Greenville Borough
Upper Moreland Township

Northampton County

City of Bethlehem

Philadelphia County

City of Philadelphia

Washington County

East Finley Township
Mount Pleasant Township
North Strabane Township
South Strabane Township

Westmoreland County

Ligonier Township
Murrysville
Upper Burrell Township
Westmoreland County Commissioners

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