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From the Organizations Working for the Complete Fracking Ban

Lawsuit by PA GOP to Overturn Fracking Moratorium Decried

Organizations see attack by fracking shills as thinly veiled industry grab

Delaware River Watershed – Organizational leaders denounced a lawsuit filed this week by Pennsylvania Senators Gene Yaw and Lisa Baker, the PA Senate Republican Caucus and Damascus Township, PA in the U.S. District Court for the Eastern District of Pennsylvania. The complaint against the Delaware River Basin Commission asks the Court to find the current *de facto* moratorium on gas drilling and fracking invalid, saying that the DRBC overstepped their authority.

A diverse coalition of organizations that have been working for more than a decade to keep the fracking industry out of the Delaware River Watershed criticized the Pennsylvania lawmakers as servants of the fracking industry who are attempting to politicize an environmental and public health issue. The groups vowed to fight to defend the watershed, which supplies approximately 17 million people with drinking water – including New York City and Philadelphia - from any and all attempts to open it up to fracking and its related activities.

“This lawsuit by the Pennsylvania Republicans against the DRBC fracking moratorium is downright reckless. These politicians are taking care of the fracking industry and selling out their own constituents. They are making clean water, climate change, and the environment a partisan issue when it’s not. We cannot allow these legislators to allow fracking to damage the drinking water for 15 million people or fragment forests and impact watersheds,” **said Jeff Tittel, Director of the New Jersey Sierra Club.** “The fact that they are politicizing this issue with this lawsuit shows why we need a permanent fracking ban. We need Governor Murphy and the rest of the DRBC to stand strong against fracking and dumping of fracking waste in the Basin by enacting a permanent fracking ban.”

“The plaintiffs are doing nothing to protect the environment, the economy, or the people of Pennsylvania with this specious attack. The use of the Environmental Rights Amendment (ERA) to advance their cause is a clear misappropriation of Constitutional

language. In fact, by fronting for the industry and using the ERA as an excuse, they are betraying their oath of office. The DRBC is carrying out its duties based on the Compact by which they are governed, which has equal representation into all decisions from each voting member of the Commission – the Governors of the four states that are part of the Delaware River Watershed, which of course includes Governor Wolf, and the Army Corps of Engineers representing the federal government. The Pennsylvania Legislature supports the DRBC’s Compact through their joining the Commission upon its founding. This lawsuit is simply these legislators carrying the water of the industry, fronting for those working for their own self-benefits,” said **Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.**

“This lawsuit appears to have the dark stain of oil and gas money on it. In 2010 a moratorium was placed on drilling because of the unique aspects of the Delaware River basin and its importance as a drinking water source for millions. Since the beginning of the moratorium there have been hundreds of accidents and spills across Pennsylvania; nine square miles of aquifer on the edge of the basin polluted; hundreds of medical studies have proven the serious health risks of drilling; waste treatment plants were overrun by toxic waste and were shut down from taking wastes; the PA Attorney General held a grand jury and has filed criminal charges against drilling companies. This lawsuit should be thrown out of court. With every year that goes by, we have more evidence to show that the DRBC commissioners should finalize a full fracking Ban which is the obvious thing to do for the basin and obviously under the Commission’s legal mandate,” **said Wes Gillingham, Associate Director, Catskill Mountainkeeper.**

“The lawsuit by Pennsylvania Republican legislators against the DRBC fracking moratorium is unconscionable. Apparently these individuals think that donations from the fracking industry give them the right to remove regulations that protect the environment in the Delaware River Basin and the health and safety of all those who depend on the waters of the Delaware and its tributaries. Fracking produces massive amounts of toxic wastes that cannot be removed once they have entered our waters. They can poison drinking water and threaten the productivity of the Delaware Estuary and Bay – an economic powerhouse that contributes far more to our region than fracking ever could,” **said Coralie Pryde, League of Women Voters of Delaware.**

The organizations point out that between 2007 and 2018, state Senate candidates received about \$2.4 million from fracking interests. Donations from industry also went to party committees, PACs and local offices. According to the website Marcellus Money, which tracks campaign spending and lobbying expenses from fracking interests in Pennsylvania since 2007, “Many donations to lawmakers have coincided with legislation in Harrisburg that specifically benefited the fracking industry”.¹

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Considering these sizable donations and the favors they may illicit, the organizations working for a permanent frack ban question how the PA GOP Caucus Senators are not violating their oath of office by placing fracking interests above their constituents need for clean water and air and a healthy environment.

“The Pennsylvania Constitution, Article 1, Section 27, the Environmental Rights Amendment, actually places clean water, air and land squarely within that oath of office. By referring to only their optimistic guesses of monetary returns from speculative business ventures and not [the actual value of the clean water, air and land](#) guaranteed to Pennsylvanians today and into the future, the plaintiffs in this lawsuit ignore both the known damages caused by fracking (see [the Compendium](#)) and the externalization of the costs of liabilities allowed by [the exemptions](#) held by the gas and oil industry to major provisions of seven different protective federal laws. The PA DEP has declared over 300 homes and businesses in PA to have had their water sources impacted by gas and oil drilling and this reflects only a portion of those impacted - ones who fit a narrow set of criteria to get to that determination.” **B. Arrindell, Director of Damascus Citizens for Sustainability continued**, "The DRBC's appropriate and correct protection of the Delaware River Basin by it's current moratorium is all that stands between the Basin and costly damages where fracking is being done."

“This half-baked partisan litigation is still a clear and present danger for the water quality for the Delaware River watershed. It has been clear that a cohort of Pennsylvania legislators have been carrying the dirty water of the fracking industry attacking the DRBC fracking moratorium. These political games make it even more important for Gov. Murphy and his fellow governors to push forward for a permanent ban on all fracking activities in the Delaware River watershed through the DRBC,” **said Doug O’Malley, director for Environment New Jersey.**

“These politicians will not succeed in their attempt to take over our watershed, even though they have the apparent backing of a powerful industry. DRBC by the Compact’s mandate and by adopted regulations protects the drinking water for millions who have nowhere else to get it, upholds Congress’s designation of the Delaware as a Wild and Scenic River, defends the river’s exceptional values including high water quality, healthy flows and habitats through its Water Code, and works to support the economic importance of the river and its watershed. Fracking and the ruinous activities of gas development in all its damaging phases in Pennsylvania has been championed by legislators who are supposed to be standing up for Pennsylvanians but instead are pushing the agenda of special interests. As a result, public health and the environment have paid a heavy, unjust price. Now these legislators are trying to expand this into the Delaware River Watershed. People deserve and require the protection of the DRBC, with decisions made on a watershed basis, guided by the collaboration of the Commissioners. We, our fellow organizations and members of the public who have

fought so long and hard to keep fracking out of the watershed will not let this selfish unfounded attempt by a special few upend the protections the river and its watershed require,” **said Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network.**

Background:

The moratorium was put in place by a unanimous vote of all four Governors (PA, NJ, NY, and DE) and the federal representative from the Army Corps of Engineers representing the President 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. But the Governors expressed opposition to the allowance of fracking in the hours leading up to the vote, citing water quality concerns, and the moratorium has been in place since then.

Pennsylvania’s support for a drilling moratorium in 2010 by then-Governor Ed Rendell has been carried forward over the last decade, solidified with the vote of Governor Tom Wolf in 2017 for a resolution adopted by DRBC to institute a permanent ban on all fracking throughout the Delaware River Watershed. The DRBC is informed by and decisions regarding the river’s shared waters are made by the state’s Governor, not the Legislature. The concept of watershed-based management that recognizes that rivers unite political jurisdictions and serve shared goals that support water quality and healthy habitats above self-interests was pioneered in the nation when the DRBC was formed in 1961 by President John Kennedy and the Watershed states.

Organizations and the public have rallied continuously since 2017 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. The final vote on a full ban on fracking and its activities is pending at the DRBC.

The lawsuit can be read here: <https://bit.ly/3ny4cG0>

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