

**VIA ELECTRONIC MAIL**

August 1, 2023

Delaware River Basin Commission  
25 Cosey Road  
P.O. Box 7360  
West Trenton, NJ 08628-0360

**DRBC Commissioners:**

Governor Phil Murphy  
Governor Josh Shapiro  
Governor Kathy Hochul  
Governor John Carney  
Colonel John P. Lloyd

Dear DRBC Commissioners,

We send this letter to you to make another request that the Delaware River Basin Commission (the “DRBC” or the “Commission”) resume its practice of having remote participation in the open comment period at all DRBC business meetings and provide the ability for all those wishing to participate to do so remotely, even if there is an in-person option for the meeting. Our coalition of activists previously sent a letter with such a request to the DRBC Commissioners and staff and the response received was dismissive of these concerns and instead focused on the specific, June 7th, 2023 DRBC Business Meeting and “Community Day” event following.

Of course we support DRBC taking time to interface with the public and giving people a chance to come together and learn more about local organizations and the DRBC, and how the public can be involved with the DRBC to protect the Delaware River Basin (the “Basin”). But what was not and has not been addressed, and is the concern of this coalition, is that all regular business meetings should be accessible to all the public, providing a meeting platform where the public has the opportunity to speak. It’s important that the Commission hold in-person meetings once again, but that does not mean the remote access that has brought so many from across the watershed into conversation with DRBC should be eliminated completely, as it was at the June 7th DRBC meeting.

Our wish in having a remote accessibility option for these regular business meetings directly supports Section 1.3e of the DRBC Compact to “apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities,

without regard to established political boundaries.”<sup>1</sup> As we mentioned in our letter, the current in-person requirement “favors lower Basin residents/commenters and all those closer to Trenton over people who reside elsewhere.”<sup>2</sup>

The necessity to still have public accessibility at meetings during the COVID-19 Pandemic has shown those across the nation that remote accessibility is readily available and has provided broader opportunity for public involvement in events like DRBC’s Open Comment Period during business meetings. If a venue doesn’t have the capability for remote access and virtual participation by the public, it simply shouldn’t be considered as appropriate for a Commission’s public meeting. It is a reasonable request that the DRBC ensure through functioning microphones, sound systems, computers, and cameras, all items which the Commission already possesses, to ensure participation from across the Basin and to those who are disabled or unable to attend these meetings but for a remote participation option. It is also the legal duty of the Commission under Section 504 of the Rehabilitation Act and Titles II and III of the Americans with Disabilities 1 Act (“ADA”) that the DRBC ensure its meetings, programs, and activities are open and accessible to disabled individuals.

The Commission should have technology in the meeting that provides: 1. Clear visual of the meeting & Commissioners & staff; 2. Audio equipment so all of the Commissioners, staff, and in-person public can be heard during the course of the business meeting and open public comment; 3. Technical connection that will allow those attending remotely to participate in public comment opportunities; 4. Equipment that will allow those who do attend in person to hear those commenting remotely.

Simply live streaming the meetings on YouTube, as was mentioned in the June 22, 2023 response letter, provides no opportunity for public engagement and involvement and is not a substitute for providing remote participation. The Commission needs to provide access to these meetings remotely for those unable to travel to the DRBC meeting space, for those who are elderly, for those who are disabled, for those who don’t have the time and money to travel, for those who work or are otherwise engaged during the hours of these daytime meetings, and because the DRBC should want to provide maximum public engagement, rather than be viewed as engaging in ableism or be seen as pushing away the public. It is for the public good that DRBC exists. Offering that “the ability to address the Commissioners off the record is always available”<sup>3</sup> does not provide the full engagement the public has during an easily accessible live and open public comment.

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<sup>1</sup> *Delaware River Basin Compact*, Section 1.3e, 1961

<sup>2</sup> June 20, 2023 letter to DRBC Commissioners and Staff from Barbara Arindell, et al.

<sup>3</sup> June 22, 2023 Letter to Barbara Arindell, et al., from DRBC Executive Director Steve Tambini

We hope the Commission will take these requests with the weight they deserve. Receiving a borderline “threat” to dispense with public comment entirely is not an appropriate reaction to organizations and individuals making a request for broader public access in these meetings. It was said in response to our first letter “Of course, because OPC is not a requirement of the Compact or any regulation or doctrine, it also remains within the Commission's discretion to dispense with it entirely if offering the session is inconvenient or impracticable”<sup>4</sup>. Providing remote access to in-person meetings is neither “inconvenient nor impracticable”.

To be clear, we are not questioning whether the DRBC meetings offer a means that handicapped individuals can arrange special accommodations; this is always offered at all meetings through the DRBC website posting. What we are requesting is access for all people who cannot attend the meetings in person, to attend and be able to participate remotely, and that these meetings offer clear, effectively amplified technical connections so that the Commission can provide greater public participation at all meetings, regardless of a person’s ability to travel to where the meeting is being held.

Providing remote access to meetings is not as simple as adding a Zoom link. For hard-of-hearing members of the public, participation in Zoom meetings poses unique challenges. The value of being able to see speakers cannot be overstated. Even hard-of-hearing people who do not read lips find that they get context from seeing the speaker’s face. Having only a timer on the screen during the comment period has made it more difficult than it should be to understand what is being said. Other remote speakers should be on screen when they are speaking and even people commenting in person at hybrid meetings should be shown facing the camera. Of course, there are times when showing people really is not possible, like during PowerPoint presentations. Having to “read” a meeting and follow a presentation is quite difficult, but sometimes unavoidable. At minimum, closed captioning should be an accommodation that does not need to be requested. It should automatically be provided at every meeting. It can be turned on and left on in Zoom so that it is always available.

Open public comment is a cornerstone of our society and engagement with official bodies like the DRBC. It is a chance for the public to interface directly with the Commissioners who represent their states and the federal government, their watershed, their needs, and a vital chance to express their concerns which is not possible in other forms. As a coalition of organizations who collectively represent the millions of people who rely on the Delaware River Basin in all four watershed states, we stand firm that this request is in the best interest of the public and in the best interest of the Commission.

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<sup>4</sup> June 22, 2023 Letter to Barbara Arindell, et al., from DRBC Executive Director Steve Tambini

Thank you for taking our requests into consideration. Signed,

*Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network*

*B. Arrindell, Director, Damascus Citizens for Sustainability*

*Karen Feridun, Founder, Berks Gas Truth*

*Patrick Greuter, Sierra Club*

*Amy Goldsmith, Clean Water Action*

*David Pringle, Empower NJ*

*Wes Gillingham, Associate Director, Catskill Mountainkeeper*

*Sahana Rao, Staff Attorney, Natural Resources Defense Council*

*Doug O'Malley, Director, Environment New Jersey*

Cc: Steve Tambini

Kristen Bowman Kavanagh

Pam Bush

Elizabeth Brown

Kate Schmidt