



Verbal testimony Delaware River Basin Commission
Proposed Rulemaking Rules of Practice and Procedure
Virtual Public Hearing #1 11.13.23

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Let's take a look at the proposed rulemaking from the perspective of the public – using an example of how rules such as those proposed by DRBC today, directly affect the decisions made by the DRBC and the public's ability to be part of the decisionmaking process.

On September 8, 2022 the DRBC Commissioners voted to affirm an approval given covertly the prior June by Executive Director Steve Tambini to extend the permit for the popularly opposed Gibbstown Liquefied Natural Gas (LNG) Export Terminal on the Delaware River (the "Dock 2 Project"). DRN uncovered that staff approval through a FOIA request. Without the FOIA, the public would have been none the wiser on the permit extension because DRBC believes their regulations don't require public notice, an opportunity for public comment, nor even a vote by the Commissioners on such permit extensions. The Commissioners are the Governors of the 4 watershed states – NY, NJ, PA and DE and President Biden, represented by the Army Corps. They are supposed to be where the buck stops at DRBC, not administrative staff.

The revelation of the behind-the-scenes approval shocked the public and shook public trust in DRBC's decisionmaking. It set off protests demanding the approval be rescinded, that there be full public disclosure, that a public hearing be held, and that any final determination be voted on by the Commissioners. But the only subsequent action taken was the Commissioner vote, which did not allow for any public comment or participation -- they simply rubber-stamped the Executive Director's secret approval.

Now we are being asked to allow DRBC to carve in stone this bad process – empowering the Executive Director to decide if a permit like Gibbstown LNG should be extended and it's even worse – it can be extended for 5 years rather than three. There would be no public participation, not even any public notification until after the ED's decision when it would be perfunctorily announced at the next DRBC public meeting. This kind of back room decisionmaking should be overthrown, not memorialized into regulations!

There are many other provisions in these proposed rules that we oppose --DRN will be submitting written comment and speaking at tonight's hearing. Overall, far too much authority is being invested in the Executive Director to act unilaterally and behind the public's back – we are being

removed from participating in these important decisions that affect us all so directly. And the Commissioners are removed from the action as well, not even voting on some of the most critical permits. The Commissioners are supposed to represent us as elected officials who are responsible for putting the public good and the environment first, not special interests. They should be the final arbiters!

For the sake of government transparency and robust opportunities for public participation we oppose all changes that shut the public out, that restrict public access to information and remove the Commissioners from project and policy decisions.