



For Immediate Release
June 20, 2017

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Pennsylvania Supreme Court Upholds Constitutional Environmental Rights in Milestone Case

Middle District, Supreme Court of Pennsylvania – Today the Supreme Court of Pennsylvania issued an opinion in *PEDF v. Commonwealth of Pennsylvania* that upheld and affirmed the applicability of the environmental rights provision of the Pennsylvania Constitution over the misappropriation and exploitation of our natural resources.

As stated by the Court: “The Commonwealth (including the Governor and General Assembly) may not approach our public natural resources as a proprietor, and instead must at all times fulfill its role as a trustee. Because the legislative enactments at issue here do not reflect that the Commonwealth complied with its constitutional duties, the order of the Commonwealth Court with respect to the constitutionality of 1602-E and 1603-E is reversed, and the order is otherwise vacated in all respects. The case is remanded to the Commonwealth Court for further proceedings consistent with this Opinion. Justices Todd, Dougherty and Wecht join the opinion. Justice Baer files a concurring and dissenting opinion. Chief Justice Saylor files a dissenting opinion. Former Justice Eakin did not participate in the consideration or decision of this case.”

“This decision affirms the self-executing nature of the Environmental Rights Amendment of the Pennsylvania Constitution and affirms that the people’s rights to clean water and air and the preservation of a healthy environment are on par with our other fundamental rights and freedoms, as concluded by the Supreme Court in 2013 in *Robinson, Delaware Riverkeeper Network v. the Commonwealth*. With this decision, there can be no doubt that the Court upholds these rights as a matter of law, essential to executing the full meaning and power of our constitutional environmental rights,” said Maya van Rossum, the Delaware Riverkeeper. Delaware Riverkeeper Network and Maya van Rossum were original petitioners in the challenge to the Commonwealth’s Act 13 which resulted in the 2013 Supreme Court landmark decision in which the Court declared the fundamental provisions of Act 13 unconstitutional and recognized the indefeasibility of environmental rights under Pennsylvania’s Declaration of Rights (Article 1, Section 27).

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“Since 2013, industry’s representatives have been saying that the Delaware Riverkeeper Network’s victory in the Act 13 litigation – which gave life to the Pennsylvania Constitution’s Environmental Rights Amendment -- should be ignored. Today’s decision is a complete vindication for Delaware Riverkeeper Network and for the residents of Pennsylvania. It reaffirms what we secured in the Robinson decision: the right to a healthy environment is inherent and inalienable and no branch or agency of government can take any action that would deprive us of this right,” said Jordan Yeager. Mr. Yeager was a lead attorney in Robinson, Delaware Riverkeeper Network v. Commonwealth of Pennsylvania, and who submitted an amicus brief to the Supreme Court in the PEDF case on behalf of the Delaware Riverkeeper Network

As stated by Justice Baer: “Through today’s decision, this Court takes several monumental steps in the development of the Environmental Rights Amendment, Article I, Section 27 of the Pennsylvania Constitution. I agree with many of the Majority’s holdings, including Part IV.A.’s dismantling of the Commonwealth Court’s Payne1 test, which stood for nearly fifty years, the confirmation that the public trust provisions of the amendment are self-executing in Part IV.C., and the recognition in footnote 23 that all branches of the Commonwealth are trustees of Pennsylvania’s natural resources.2 These holdings solidify the jurisprudential sea-change begun by Chief Justice Castille’s plurality in Robinson Township v. Commonwealth, 83 A.3d 901, 950-51 (Pa. 2013) (plurality), which rejuvenated Section 27 and dispelled the oft-held view that the provision was merely an aspirational statement. With this, I am in full agreement.”

The Supreme Court Ruling can be downloaded at: <http://bit.ly/2sPyPij>

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