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Holding 'Rogue' Delaware River Basin Commission Accountable

On June 11, House State Government Committee Chairman Daryl Metcalfe (R-Butler) convened a public hearing to investigate allegations of bureaucratic overregulation and mismanagement regarding the Delaware River Basin Commission (DRBC). Last summer, Chairman Metcalfe convened a similar hearing to investigate the burdensome regulatory overreach of the Susquehanna River Basin Commission.

The Delaware River Basin Commission was established at the federal level via a multi-state compact in the 1960s between Pennsylvania, Delaware, New Jersey and New York. The DRBC has the power to plan, develop, conserve, regulate and manage the Delaware River's resources for the approximately 15 million people who depend on it.

Rep. Jonathan Fritz (R-Susquehanna/Wayne), whose district contains part of the Delaware River, asked Chairman Metcalfe to convene the hearing because the residents and landowners of his district have been treated unfairly by what he described as a "rogue and unaccountable entity."

According to Fritz, the DRBC has caused major overregulation and restriction on land use and has essentially banned natural gas development in the parts of his district that surround the Delaware River, causing the region to miss out on job creation and economic growth.

Through testimony, it was discovered that the commissioners of the DRBC are the elected governors

of each state in the compact, making Gov. Tom Wolf the appointed commissioner for Pennsylvania. It was also discovered that the governor sends a proxy to represent Pennsylvania at the meetings, instead of attending the meetings himself.

Through Chairman Metcalfe's questioning of Steve Tambini, the executive director of the DRBC, it was revealed that the governor also sent a proxy voting to initiate the commission to ban drilling. Pennsylvania was in the majority with the states of Delaware and New York when DRBC voted to ban natural gas development. The representative of the federal government voted no, and New Jersey abstained.

Just like the Susquehanna River Basin Commission, the DRBC was established by a compact at the federal level. Regulations are promulgated by the DRBC regarding water use from the Delaware River, including groundwater, without any oversight from the General Assembly. Fees and other penalties are also established with no state oversight. Pennsylvania's open records laws do not apply to them, yet their employees enjoy membership in the generous Pennsylvania State Employees' Retirement System (SERS).

The Delaware River runs through Wayne County, an area that has struggled financially. Wayne County Commissioner Joseph Adams explained the reason for this is "the economic stranglehold that the DRBC, and its overreaching, restrictive rules and regulations, has on us." Adams noted that the DRBC's

overregulation has led to stunted economic growth in energy, construction and the forest industry.

Wayne County resident, Betty Sutliff, shared her belief that discriminatory treatment of a few counties at the hands of unaccountable commissions is wrong, stating "that all 67 counties in Pennsylvania should be ruled by the same law, Pennsylvania law, and not be superseded by the DRBC and people they never elected."

Legislators present at the hearing learned from David Spigelmyer, president of the Marcellus Shale Coalition, that Pennsylvania is the second largest producer of natural gas in the United States. Out of Pennsylvania's 67 counties, 33 have at least one producing unconventional gas well. The industry is responsible for over 100,000 direct and indirect jobs, billions in tax revenue and infrastructure improvement, as well as growth in other businesses.

Rep. Dan Moul (R-Adams) has introduced legislation to help rein in the DRBC. House Bill 2222 would make the Department of Environment Protection (DEP) the exclusive entity permitted to regulate groundwater within the Commonwealth and to impose fees, fines or penalties on the use, withdrawal, or retention of groundwater.

Moul explained that the DRBC was created with the intention to regulate the use of surface water only. This would give the General Assembly oversight of any regulations promulgated on groundwater, thereby limiting the authority of DRBC and similar entities. House Bill 2222 has been referred to the House State Government Committee.

Chairman Metcalfe will continue to use his position as leader of the House State Government Committee to shine a light on overregulation and injustice against hard-working Pennsylvania taxpayers and employers.

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