

Taking a stand in defense of the Delaware River - This is personal for me

Maya K. van Rossum,
the Delaware Riverkeeper

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On June 12, 2018, the Delaware Riverkeeper Network and I, in my role as the Delaware Riverkeeper, filed a lawsuit against Sunoco Pipeline L.P. for failure to obtain a Clean Water Act permit for the Mariner East 2 (ME2) pipeline project.

Our precedent setting legal argument asserted that, based on a plain reading of the law, while normally a pipeline like ME2 can avoid the need for such a permit, this permit requirement becomes due when it is demonstrated that they are violating state water quality standards. In our legal filings, we documented that the Pennsylvania Department of Environmental Protection issued 98 Notices of Violation of state water quality protection standards to Sunoco in just over two years (from May 9, 2017 through July 26, 2019).

This was an important case, essential for holding Sunoco accountable for their repeated violations of the law – which averaged more than three violations a month over just this one 26-month period. These were not simply paper violations – these were serious pollution discharges affecting communities and our environment with serious long-term consequences.

The federal judge ultimately ruled against us. It was a heart-wrenching and upsetting decision that I wholeheartedly disagreed with. Sadly, that was the decision that carried the day. Normally, that would have been the end of the matter. But after the judge's ruling, Sunoco submitted an additional filing in which they urged the court to force the Delaware Riverkeeper Network to pay \$600,000 to Sunoco's attorneys, Manko, Gold, Katcher & Fox, to

cover their legal fees. Sunoco didn't stop there, they decided to go one step further and go after me and my family as well, telling the court that I should also be personally responsible for Sunoco's legal fees.

Interestingly, Manko, Gold, Katcher & Fox also represents Constitution Drive Partners who, in recent years through a different law firm, similarly filed a SLAPP suit against the Delaware Riverkeeper Network and me personally for challenging development of a highly contaminated site that is a threat to our environment and nearby communities. "SLAPP" stands for Strategic Lawsuit Against Public Participation. Such suits are often brought by special interests with the intention of draining the limited financial resources of those they sue.

Constitution Drive Partners (CDP) is a limited partnership that

also involved a developer named O'Neill. In that case, the request was that the judge issue a ruling that the Delaware Riverkeeper Network and/or I personally pay "an amount in excess of \$50,000.00, plus attorneys' fees, costs, punitive damages, interest and such other relief as the Court deems equitable, just and proper." In the CDP SLAPP suit, which was defeated multiple times in the courts, not only was I served multiple times, but CDP and Mr. O'Neill went so far as to have me served personally, at my home, on Mother's Day Sunday. When Mr. O'Neill saw me days later at a public meeting, in an incident witnessed by others, he came inappropriately close and spoke quietly into my ear, "Did you get my love note?"

In the CDP SLAPP suit, the judge ruled that the work of the Delaware Riverkeeper Network and myself was constitutionally and legally protected, and the case baseless. Nonetheless, for over a year, the threat hung over my organization, my family, and me. While I was confident in the justness of our

advocacy and legal position, one never knows how a judge might rule.

The Delaware Riverkeeper Network was also the subject of a SLAPP suit filed in 2015 because of litigation we were pursuing to protect communities from fracking. There too the case was resolved in our favor, but only after significant time under threat and, of course, legal fees – but my guess is that was the point.

Back to Sunoco ... I have/had absolute confidence in the justness of our legal position – legally and morally – but, again, one never knows how a judge will rule.

Much to my surprise and that of our attorneys, the judge overseeing the case, did not immediately quash Sunoco's claim for fees, a claim clearly designed to crush my organization and me. Rather than dismiss the request out of hand, the judge asked that I file full financial information on my own finances, which of course included my husband and children. From my perspective, Sunoco was going

for the jugular and the court was entertaining the threat.

For five months this year, we waited. The threat of financial ruin hung over my head. A decision against the Delaware Riverkeeper Network would have been devastating and a major loss for the environments and communities that rely on us to protect them from bad actors like Sunoco. A decision against me and my family would have brought personal financial ruin and resulted in Sunoco owning every aspect of my life. Not only could my family become homeless and my children's future be put in jeopardy, but my mother's legacy was at risk as well. In the balance was the protection of a precious forest, secured because of an inheritance my mother received from her parents. Protection of this forest was more than just a gift of nature from my mother when she passed away, it represents the passage from generation to generation – from my grandparents, to my mother, to me, to my children – of a commitment to protection of those we care about

My family in photos - Me with Wim, Anneke, Dave, and my dog, Pippi





My Mum, Marijke, with my daughter



My Opa & Oma, Ernst & Trijntje Wijsmuller



(both people and nature) and defense of what is just, moral, and right.

You see, my mother and her family lived through World War II, through bombs dropping on their Dutch community. I vividly remember my mother, who passed away in 2004, telling me, with tears in her eyes, about the time that the Nazis came to take her brothers and force them into military service. But my grandfather refused to allow his sons to be taken to serve the Führer and advance the horrifying agenda that the Nazis wrought on the Jewish people and on the world. When my grandfather refused to turn over his two sons, he was thrown into prison for days. Because my grandfather was a well-respected man in his community, he was ultimately released despite his failure to comply. What a beautiful and proud moment that must have been for my mother, my grandfather, and his family. Through this moment and others, my mother's family were able to resist the Nazis and come through the war intact. My grandparents survived the war and,

when they passed, they left a small inheritance to each of their children, my mother included. The thought that the modest inheritance my mother received from her parents – people who had not just survived the war but had done so with honor and integrity – would end up in Sunoco's hands was almost too much to bear.

I spared my children the fear of the threat Sunoco was making, but my husband and I lived with the threat all summer and into the fall. As scary as this period was, there was no regret for the decisions or actions that I as Delaware Riverkeeper and the Delaware Riverkeeper Network had taken to challenge Sunoco's abuses of our environment and communities. Not once did my husband show any anger, recrimination, or upset. He had not signed up to have his life devastated by Sunoco, and yet he stood solidly by my side in defiance of this indefensible attack on our family. Whenever the worry for my children, my mother's legacy, and our family overwhelmed me, Dave was there to offer a hug, and his love,

strength, and unwavering support.

Attorneys on the Delaware Riverkeeper Network Board, along with our solid team of staff attorneys, were all quick to step up in defense of our organization and work. My husband and I hired an attorney to represent my family's interests, making clear that Sunoco's attack on me should not translate into an attack on my husband and children. This legal team worked together on a daily basis to defend the righteous and just actions of the Delaware Riverkeeper Network and myself as the Delaware Riverkeeper.

Friends, family, and supporters wondered how I coped with the ever-present threat to the Delaware Riverkeeper Network and to my family. It may sound strange, but I knew there was no losing outcome.

Either the judge would issue a just decision that vindicated the Delaware Riverkeeper Network and my family, and protected us from this vicious effort by Sunoco, represented by their legal counsel, Manko, Gold, Katcher & Fox.

Or the judge would issue an unjust ruling. If this were the case, I would have used this moment to highlight the serious fallacies in our system of environmental protection and the tremendous power industry has over our systems of government and law. And maybe, just maybe, the overwhelming inequity of the decision would pierce through the veil of injustice that pervades our nation when it comes to community and environmental protection, and maybe we would have a needed platform to secure long-term change towards true protection and justice.

Ultimately, on September 23, 2020, the judge ruled in favor of the Delaware Riverkeeper Network and in defense of my family and rejected the claim for fees.

I am still troubled by the very personal threats leveled at my family, as well as all the families that depend

upon the Delaware Riverkeeper Network for protection and defense. I can see that coming after our organization and me personally is now a strategy of industry. But this also tells me that those we oppose are afraid ... afraid of the facts, science, law, and strength we bring to the table in response to threats posed to our River, our communities, our families, and to generations yet to come.

I take some solace in the recognition that – while I and my organization will continue to draw the ire of industry along with their efforts to silence our advocacy through such spurious attacks, our being the focus of attack means that the River and communities we are rising up to champion and defend may be protected from harm. Whatever the future brings for our communities and environment, I can

promise you one thing, the Delaware Riverkeeper Network will be here taking a stand in defense. I would like to think my grandfather and my mother would be proud of me. I feel that they are standing beside me, holding my hand, as we stand together in defense of our River, communities, and future generations.

*Maya K. van Rossum has served as **the Delaware Riverkeeper** and leader for the Delaware Riverkeeper Network since 1994. The role of the Delaware Riverkeeper is to give the Delaware River, and the communities that depend upon it and appreciate it, a voice at every decisionmaking table that could provide help or do harm. The Delaware Riverkeeper Network that van Rossum leads is the only citizen action organization that works the entire length and breadth of the Delaware River and its watershed, speaking and working for both its protection and its restoration.*

More photos of my family and my River

