

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Water Permits  
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November 1, 2019

## Via Email

John D. Kelly, Hearing Examiner  
Pennsylvania Department of State  
Office of General Counsel  
2601 North Third Street, P.O. Box 69521  
Harrisburg, PA 17106-9521  
jdkelly@pa.gov

Dear Mr. Kelly,

I write you in my capacity as Governor Cuomo's appointed alternate Commissioner on the Delaware River Basin Commission, and as Chair pro tem of the Commission for the fiscal year ending June 30, 2020.

In response to a timely request by the Delaware Riverkeeper and Delaware Riverkeeper Network (collectively "DRN"), the Commission on September 11, 2019 voted to grant an administrative hearing under subpart F of its Rules of Practice and Procedure, 18 CFR *part 401* ("Rules"), to review the Commission's decision of June 12, 2019 issuing Docket D-2017-009-2 for the project known as "Gibbstown Logistics Center Dock 2."

Pursuant to the Rules it is my responsibility to designate a Hearing Officer to conduct such hearing. With thanks to Governor Wolf of Pennsylvania, who has generously made your services available to the Commission, you are hereby so designated. I will ask the Commission's General Counsel or Assistant General Counsel to notify the "interested parties," as that term is defined in § 401.84 of the Rules, of your appointment and their opportunity to object if, but only if, they have a basis to assert that you cannot fairly serve as Hearing Officer due to a conflict of interest. I am aware of no such conflict. If at any time for any reason you determine that you are unable to fulfill your responsibilities as Hearing Officer, please so inform me without delay.

Also be advised that the party requesting the hearing, DRN, and the docket holder, an entity named Delaware River Partners, LP ("DRP"), will both participate in the hearing as "interested parties." As part of your responsibilities, you are hereby authorized to determine whether any person other than DRN and DRP claiming "interested party" status in this matter may also participate as an "interested party."

The Commission wishes to see this proceeding completed as expeditiously as possible and with respect for the right of all parties to due process under the law. Please proceed accordingly. Commission Secretary and Assistant General Counsel Pam Bush will provide you with relevant documents and contacts, and she and the Commission staff will assist you in identifying an appropriate hearing room.

Thank you for your service to the Delaware River Basin Commission and all parties involved.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Kosinski', written in a cursive style.

Kenneth Kosinski, P.E.  
NYS Commissioner (Governor's alternate)  
for the Delaware River Basin Commission

cc: DRBC Commissioners  
Steven J. Tambini, Executive Director, DRBC  
Kenneth J. Warren, Esquire, Warren Environmental Counsel LLC, DRBC  
General Counsel  
Pamela M. Bush, Esquire, Commission Secretary and Assistant General Counsel