



## BENEFITS OF A CONSTITUTIONAL PROVISION PROTECTING ENVIRONMENTAL RIGHTS



GREEN AMENDMENTS  
FOR THE GENERATIONS

Pure Water, Clean Air, Healthy Environment.

### BENEFITS OF AND BEYOND VICTORY

- Environmental protection given the **highest level of protection under the law**.
- People and politicians receive and must embrace the concept that environmental rights are **inherent and indefeasible and on par with other political rights** (free speech, religion, property, etc.).
- Public and political messaging that embraces environmental rights.
- Government Officials learn the importance of protecting our water, air, climate, natural resources and environment for present and future generations while seeking to achieve other community goals.
- Environmental protection is given the highest level of protection under the law.
- Environmental justice is strengthened because all communities must be treated equitably regardless of their race, ethnicity, religion or income.

### HOW A STRONG ENVIRONMENTAL RIGHTS AMENDMENT PROVIDES GREATER ENVIRONMENTAL PROTECTIONS

#### Environmental Rights are Recognized as Inherent & Indefeasible

“The Declaration of Rights assumes that the rights of the people ... are inherent in man’s nature and preserved rather than created by the Pennsylvania Constitution.”<sup>1</sup>

#### Environmental Rights are On Par with Political Rights

“It is not a historical accident that the Pennsylvania Constitution now places citizens’ environmental rights on par with their political rights.”<sup>1</sup>

#### Government Has A Duty to Refrain from Violating Environmental Rights

“The corollary of the people’s Section 27 reservation of right to an environment of quality is an obligation on the government’s behalf to refrain from unduly infringing upon or violating the right, including by legislative enactment or executive action.”<sup>1</sup>

#### There is a Protective Limit on Governmental Authority

“....sections of the Declaration of Rights represent specific limits on governmental power.”<sup>1</sup>

#### Environmental Protection is the Responsibility of Every Government Official

...“public trustee duties were delegated concomitantly to all branches and levels of government in recognition that the quality of the environment is a task with both local and statewide implications, and to ensure that all government neither infringed upon the people’s rights nor failed to act for the benefit of the people in this area crucial to the well-being of all Pennsylvanians.”<sup>1</sup>

#### There is a Duty to Act on State

“[T]he Environmental Rights Amendment places an

affirmative duty on the Commonwealth to ‘prevent and remedy the degradation, diminution, or depletion of our public natural resources’—i.e., to conserve and maintain...”<sup>2</sup>

### **All Levels of Government, Including Local Officials, have an Obligation to Protect Constitutional Environmental Rights**

- “The protection of environmental and esthetic interests is...a key part of local government’s role.”<sup>1</sup>
- ...“public trustee duties were delegated concomitantly to all branches and levels of government in recognition that the quality of the environment is a task with both local and statewide implications, and to ensure that all government neither infringed upon the people’s rights nor failed to act for the benefit of the people in this area crucial to the well-being of all Pennsylvanians.”<sup>1</sup>

### **There is a Duty of Government to Refrain from Permitting Environmental Degradation**

“As trustee, the Commonwealth has a duty to refrain from permitting or encouraging the degradation, diminution, or depletion of public natural resources, whether such degradation, diminution, or depletion would occur through direct state action or indirectly, e.g., because of the state’s failure to restrain the actions of private parties.”<sup>1</sup>

### **There is a Thumb placed on the Scale of Environmental Protection**

“If anything, when environmental concerns of development are juxtaposed with economic benefits of development, the Environmental Rights Amendment is a thumb on the scale, giving greater weight to the environmental concerns in the decision-making process.”<sup>2</sup>

### **Science-Based Decision Making is Required**

As a trustee, government must consider before acting whether the proposed action (such as legislation or permitting) would cause “actual or likely” “degradation, diminution, or depletion” of the people’s public natural resources either now, or in the future.<sup>1</sup>

### **Individual and Cumulative Impacts Must be Considered; Must Protect Environmental Quality for Future Generations**

“Moreover, the constitutional provision directs the ‘preservation’ of broadly defined values of the environment, a construct that necessarily emphasizes the importance of each value separately, but also implicates a holistic analytical approach to ensure both the protection from harm or damage and to ensure the maintenance and perpetuation of an environment of quality for the benefit of future generations.”<sup>1</sup>

### **Government has a Duty to Restore the Right when Taken**

“[T]he Environmental Rights Amendment places an affirmative duty on the Commonwealth to ‘prevent and remedy the degradation, diminution, or depletion of our public natural resources’—i.e., to conserve and maintain . . .”<sup>2</sup>

### **People Can Enforce Their Environmental Rights**

“The Commonwealth’s obligations as trustee to conserve and maintain the public natural resources for the benefit of the people, including generations yet to come, create a right in the people to seek to enforce the obligations.”<sup>1</sup>

<sup>1</sup> Robinson Township, Delaware Riverkeeper Network, et al v. Commonwealth, 83 A.3d 901 (Pa., Dec. 19, 2013).

<sup>2</sup> Pennsylvania Envtl. Def. Found. v. Commonwealth, 108 A.3d 140 (Pa. Commw. Ct. 2015).



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