

# Bill Nierstedt

I am sending this comment as a person who has canoed, kayaked, and swam in the Delaware River since I was a kid. I am now 66 years old. The Delaware River has remained clean and wild because of people like myself who written letters and commented on proposals such as this one to take power away from the people and put it in the hands of a few who may or may not have the people's wishes or needs uppermost in their minds when they vote. I oppose this proposed change for the following reasons:

1. Administrative Staff decision making cuts out the public. This proposal would give the Executive Director (ED) far too much authority over many crucial decisions and these decisions are made unfortunately behind closed doors, without the public and without a vote by the DRBC Commissioners. These include: the power to decide whether or not a change to a project is "material" (if it is "materials" it would open up for more robust review); and decisions about the submission of applications for projects, what is required in an application and when an application is complete; and a request for some 5-year permit extensions.
2. Key Permits are given a pass. Extension of Permits without an expiration date are given favored status, such as the Gibbstown LNG Export terminal docket. The ED is being invested with exclusive authority regarding extension of permits that removes public input completely and relieves the Commissioners of their responsibility to review and approve extensions. This legitimizes the behind-the-scenes decision making that undermines government accountability and public trust. This is supposed to be a democracy, not an Executive Director controlled autocracy.
3. The bar is currently too low for the extension of Existing Projects that haven't been built. \$1M is set as a "minimum" amount expended to decide if there has been sufficient investment in a project, and even that value can be disregarded under certain circumstances. No foundation is provided for this amount and no substantive explanation of what "substantial funds in relation to a project" really means. And, the ED has the power to decide if the amount expended is substantial.
4. The public will be intimidated not to litigate a project. The rules would allow the sponsors of a project to claim that litigation by opposing parties is an excuse that can be used to explain why they haven't built or spent sufficient funds on a project that they want extended. Bullshit.
5. The subjective and value-loaded term "Material Change" and "Materially" are used throughout the proposed rulemaking – yet no clear definition is available, only a bureaucratic explanation. This terminology is not easily understandable and clouds objectivity in decision making. It allows for varying interpretations for different projects, which is unfair, including unjust for the public who must live every day with the decisions that are made.
6. The Public Requires Access to Information! This DRBC rule change is removing all references to the federal Freedom of Information Act from its rules and is setting up an alternative DRBC-centric system that leaves many aspects unaddressed or in the hands once again of the autocrat ED, such as forms, reason for denial, and how costs will be assessed fairly, including if a waiver of fees can be requested like other agencies allow. The DRBC needs to provide a prescribed public access system that is clear, user-friendly, and affordable to assure public access to public records. The public needs something concrete to rely on. And it's proposed that the ED determines whether or not to disclose requested information, deciding unilaterally if a disclosure is in the public interest! This invests unfair control over the information in one person who may not even be qualified to make such legally or technically important decisions. The public needs to take part in DRBC decisions but without access to information, we can't do that effectively. Information is

power and the people have a right to it!

For these reasons, I oppose these proposed rules and ask that they not be adopted as written.