

**[J-78-2020][M.O. – Donohue, J.]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

PENNSYLVANIA ENVIRONMENTAL	:	No. 64 MAP 2019
DEFENSE FOUNDATION,	:	
	:	
Appellant	:	Appeal from the Order of the
	:	Commonwealth Court dated 7/29/19 at
	:	No. 228 MD 2012
	:	
v.	:	ARGUED: September 17, 2020
	:	
	:	
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	
AND GOVERNOR OF PENNSYLVANIA,	:	
TOM WOLF, IN HIS OFFICIAL CAPACITY	:	
AS GOVERNOR,	:	
	:	
	:	
Appellees	:	

***DISSENTING OPINION***

**JUSTICE SAYLOR**

**DECIDED: July 21, 2021**

I joined the central analysis of Justice Baer’s dissent in *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 640 Pa. 55, 161 A.3d 911 (2017), because I found it incongruous to apply private trust law principles to a public trust. See *id.* at 102-116, 161 A.3d at 940-48 (Baer, J., dissenting); *id.* at 117, 161 A.3d at 949 (Saylor, C.J., dissenting). To the degree that I am now bound to do so based on precedent, I obviously favor the narrowest application possible. Accordingly, I would affirm based on the Commonwealth Court’s rationale.