



September 10, 2010

Commissioners
Carol Collier, Executive Director
Delaware River Basin Commission
West Trenton, New Jersey

Dear Commissioners and Director Collier,

We applaud that the Commission has deferred action on natural gas production well applications in the Delaware River Basin while developing natural gas-specific regulations that will apply to all gas-related projects within the Watershed. These regulations are essential to protect the water supply for over 15 million people and to assure that the Special Protection Waters of the Delaware River are protected from pollution and degradation. It makes eminent sense to withhold permitting of gas wells while the rules that would govern these activities are being developed.

The Commission's Executive Director Determination (EDD) dated May 19, 2009 reviewed the responsibilities of the Commission and explained that the Commission's rules in part state that projects fall under the purview of the Commission if there exists: "...a potential substantial water quality impact on waters classified as Special Protection Waters." The EDD further explains: "Most of the shale formations that may be subject to the new horizontal drilling and hydraulic fracturing techniques are located within the drainage area to Special Protection Waters. The Executive Director has considered and has now determined that as a result of water withdrawals, wastewater disposal and other activities, natural gas extraction projects in these shale formations may individually or cumulatively affect the water quality of Special Protection Waters by altering their physical, biological, chemical or hydrological characteristics."

As you know, the Commission applied for federal funding for a cumulative impact study on the effects of natural gas development on the water resources of the Basin. On June 23 it was announced that the House Appropriations Committee Subcommittee on Interior, Environment, and Related Agencies approved \$1 million for the U.S. Geological Survey (USGS) and the Commission to conduct that study. The bill's sponsors are pressing for passage in the coming weeks. With this study, the Commission will be able to inform the needed rulemaking process so that effective regulations can be adopted to prevent pollution and degradation of the River's Special Protection Waters. The foresight the Commission has shown in seeking the funds that are now being moved through the approval process is exemplary and will make the

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Commission's goals set in the EDD possible. We are, as a Watershed community, at the beginning of a planning and regulatory process that appropriately reflects the gravity of the new expected activity and applies an approach that brings both science and sound planning policies to this task.

However, there are pitfalls ahead. First, the Commission announced in July that it is fast-tracking its natural gas regulations. A letter submitted by New Jersey Commissioner Bob Martin dated July 13, 2010, urged that regulations be promulgated no later than September 30, 2010. Apparently in response to this letter, the Commission has agreed to issue draft regulations by that date and adopt final regulations by the end of the year. But this is prior to the cumulative impact study that is being funded by the federal government to assess the impacts of natural gas development in the Basin. This study is essential to developing appropriate rules. Further, this schedule does not allow for adequate public participation in the critical rulemaking. This issue, as you know, has resulted in more public comments than any other single issue in the Commission's history. The public has a deep desire for a robust public participation process regarding these regulations.

The second pitfall is that the Commission is not deferring action on water withdrawals and wastewater discharges and that a number of "exploratory" wells have been "grandfathered", avoiding Commission approval. The EDD identifies water withdrawals, wastewater discharges and all activities related to natural gas development as potential threats to water resources. Yet the Commission is allowing these exempted activities to move ahead before specific regulations are adopted. This apparent acceptance of the risk of pollution and degradation is not consistent with the determinations of the Commission, including the 2009 EDD and the Supplemental EDD of June 14, 2010, and has the potential to result in environmental harm that cannot be undone. The Commission's considered approach is in danger of unraveling.

The practical problem posed by this loophole is that several water withdrawal applications for hydraulic fracturing of gas wells are being moved through the Commission's approval process prematurely. Stone Energy received approval July 14 for .70 million gallons of water per day (mgd) from the West Branch of the Lackawaxen River and 2 new withdrawal applications have been filed recently: XTO Energy for 0.25 mgd from Oquaga Creek (flows to the West Branch Delaware River) in Broome County, NY and up to 200,000 gpd of water from the Village of Deposit's wells in the West Branch of the Delaware River Watershed in Broome and Delaware Counties, NY for Newfield Appalachia PA's gas wells. All these withdrawals are within Special Protection Waters and display the beginning of a rush for water that should be on hold.

We, the undersigned, respectfully request:

- The Commission defers all action on natural gas, including the issuance of draft natural gas regulations, until the cumulative impact study on the impacts of natural gas development on the water resources of the Basin is concluded so that these findings may inform the rulemaking process to prevent pollution and degradation of the waters of the Basin and the River's Special Protection Waters.
- No action is taken to approve water withdrawals, wastewater discharges, and development of natural gas from all geologic formations until natural gas-specific regulations are adopted and further that all test wells, regardless of permitting status by the States, be held in abeyance and included in the Commission's review and approval program.

We request these actions be taken at the September 15 meeting of the Commission, or sooner.

Respectfully submitted,

American Canoe Association, John P. Brunner, Chair, Delaware Valley Division, National
American Rivers, David Moryc, Senior Director of River Protection, National
Association of New Jersey Environmental Commissioners, Sandy Batty, NJ
Burnham Park Association, Dr. Lynn L. Siebert, President, NJ
Catholic Daughters of the Americas, Mary Smith, Diocese of Rochester, NY
Catholic Daughters of the Americas, New York State, Mary Smith, NY
Catskill Citizens for Safe Energy, Jill Wiener, NY
Catskill Mountainkeeper, Wes Gillingham, Program Director, NY
Chemung County Church Women United, Mary Smith, NY
Chemung County Council of Churches, Mary Smith, NY
Chemung County Council of Women, Mary Smith, NY
Citizens Campaign for the Environment, Sarah Eckel, Policy Analyst, NY
Citizen's Coalition for a Safe Community, Paul V. Ferrazzi, Culver City, CA
Citizens for a Viable Easton, Robert Johnson, PA
Clean Water New York, Susan Chew, NY
Coalition for Responsible Growth & Resource Conservation, Anne Harris Katz, Secretary, PA
Comeback Farm, Mark Canright, Farmer/Owner, NJ
Community Environmental Defense Council, Inc., David Slottje, Executive Director, NY
Congregation Tzekek V Shalom of Newtown, PA
Corning/Elmira Past Regents Club, Mary Smith, NY
Court St Joseph #139, Mary Smith, NY
Crafts Creek Spring Hill Brook Watershed Association Inc., Bob Tallon, President, NJ
Croton Watershed Clean Water Coalition, Inc., Fay C. Muir, President, NY
Damascus Citizens for Sustainability, Barbara Arrindell, President, PA
Delaware County Neighbors, Caroline Martin, NY
Delaware River Greenway Partnership, Marion M. Kyde PhD, President, PA and NJ
Delaware Riverkeeper, Maya K. van Rossum, Delaware Riverkeeper Network, Tracy Carluccio
Earthjustice, Deborah Goldberg, Managing Attorney, NY
EARTHWORKS Oil & Gas Accountability Project, Nadia Steinzor, Marcellus Reg. Organizer, Nat'l
Environment America, Piper Crowell, National
Environment New Jersey, Matt Elliott, NJ
Environment New York, John Rumpler, NY
Environmental Advocates of NY, Katherine Nadeau, Water & Natural Resources Program Dir., NY
GAS DRILLING AWARENESS FOR CORTLAND COUNTY, Sheila Cohen, NY
Grassroots Coalition, Patricia McPherson, President, CA
Great Egg Harbor Watershed Association Fred Akers, River Administrator, NJ
Hunterdon Land Trust Alliance, Catherine Suttle, NJ
Ladies of Charity of Chemung County, Mary Smith, NY
League of Women Voters of New Jersey, Nancy Hedinger, NJ
Maiden Creek Watershed Association, Elaine Bartholomew, President, PA
Morris Co. Trust for Historic Preservation, Marion O. Harris, Chairman, NJ
Mountain Watershed Association, Beverly Braverman, Director, PA
Musconetcong Mountain Conservancy, Tom Koven, NJ
Sierra Club, Robin Mann, President, National
Natural Resources Defense Council, Kate Sinding, Senior Attorney, NY

NEPA Citizens in Action, James Luby, PA
New Jersey Conservation Foundation, Alison Mitchell, Policy Analyst, NJ
New Jersey Environmental Federation, David Pringle, Campaign Director, NJ
New Jersey Highlands Coalition, Julia Somers, Executive Director, NJ
New Jersey Sierra Club, Jeff Tittel, Director, NJ
New York Residents Against Drilling, Kris Pixton, Co-Chair, NY
New York Trout Unlimited, Ron Urban, NY
New Yorkers for Sustainable Energy Solutions Statewide, Michael Lebron, Stan Scobie, NY
North East Group of Pa State Chapter of Sierra, Doug Heller, Chair, PA
NY/NJ Baykeeper, Deborah A. Mans, Baykeeper & Executive Director, NJ
NYH2O, Joe Levine, President, NY
NYS Church Women United, Mary Smith, NY
Otsego 2000, Inc., Nicole Dillingham, President Board of Directors, Cooperstown, NY
Otzinachson Regional Group of the Sierra Club, Jack D. Miller, Conservation Chair, PA
PennEnvironment, Erika Staaf, PA
Pennsylvania Forest Coalition, Dick Martin, Coordinator, PA
People for a Healthy Environment, Inc., Doug Couchon, Board Member, NY
Pomona Grange #1, Mary Smith, Chemung County, NY
Pompeston Creek Watershed Association, Debbie Lord, Vice President, NJ
Protecting Our Waters, Iris Marie Bloom, Director, PA
Sierra Club Rocky Mountain Chapter, Gopa' Ross, Oil and Gas Chair, CO
Sierra Club, Pennsylvania Chapter, Thomas Au, Conservation Chair, PA
Stony Brook-Millstone Watershed Association, Jim Waltman, Executive Director, NJ
Sullivan Area Citizens for Responsible Energy Development, Karen London, Co-Founder, NY
The Coalition to Protect New York, Kate Bartholomew, CPNY Leadership Council, NY
The Lackawaxen River Conservancy, Winifred Olsen, President, PA
Theodore Gordon Flyfishers, Inc., John L. Barone, Vice-President of Conservation, NY
Town of Highland, Andrew Boyar, Supervisor, NY
Town of Highland, Debra R. Conway for Highland Concerned Citizens, NY
United for Action, David Braun, President, NY
Veteran Grange #1118, Mary Smith, Chemung County, NY
Youghiogheny Riverkeeper, Krissy Kasserman, PA