



January 24, 2011

Philadelphia City Council Voting Members
Philadelphia City Council, Room 402
Philadelphia, PA 19107

Re: Marcellus Shale Report and Recommendations - Resolution No. 100864

Dear Councilman Jones, Councilwoman Reynolds-Brown, and District Council Members,

Thank you for your continued leadership and past actions related to the impacts to the Philadelphia community surrounding the issue of hydraulic fracturing in the Marcellus shale and the potential threat this industry brings to the 17 million people who rely on the Delaware and Schuylkill Rivers for their drinking water. Maya van Rossum, the Delaware Riverkeeper, was delighted to share testimony as one of the nineteen panelists at the September 28, 2010 hearing conducted by the Joint Committees on Transportation and Public Utilities and the Environment.

The expert concerns shared at the hearing clearly indicate the continued need for your leadership on this issue. Your action and ability to pass this resolution and the report and recommendations on January 27th is ever more critical with the events that have transpired since the hearing on September 28th. DRN wanted to be sure to share recent events with Council members in writing for your consideration that raise the urgency of this issue for the Delaware River Watershed which serves as drinking water for the residents of Philadelphia.

Despite a storm of protest and requests from thousands to wait for the science to be completed, including Philadelphia City Council, New York Governor David Paterson, Congressman Maurice Hinchey (NY), Congressman Rush Holt (NJ), New York City Mayor Michael Bloomberg, and NYC Council, the Delaware River Basin Commission (DRBC) prematurely issued draft natural gas development regulations for the Delaware River Watershed at the December 8, 2010 meeting

With these regulations, the Delaware River Basin Commission (DRBC) began an inadequate 90-day comment period and the promise of only three public hearings on the regulations. This is in direct conflict with Philadelphia Council's recommendations, past resolution and letters,

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and the current resolution being considered. It is also in direct conflict to the over 10,000 citizens who called on DRBC to wait until the science and a cumulative impact study for the Delaware River Watershed has been conducted and important studies like the EPA study on the effects of hydraulic fracturing on drinking water is complete.

Furthermore, DRBC announced on January 24, the three meeting dates set for the public to be heard regarding the draft drilling regulations (2 hearings on Feb 22nd are scheduled for Honesdale, PA and Liberty NY and one hearing in Trenton scheduled on Feb 24th).

Unfortunately, there are no hearings set for Philadelphia – another request that has been emphasized to DRBC by the public and City Council throughout the public process. It seems obvious that the second largest population center that relies on the Delaware and Schuylkill River for their water supply should have a hearing planned in the city to ensure the public has the ability to weigh in on drilling that will ultimately affect their drinking water. DRN is urging Philly City Council to formally request the DRBC to hold a fourth hearing in the city limits. If the DRBC does not set a hearing, we respectfully request the Council to hold a public hearing in the city limits and submit the transcript to DRBC for official public comment before the March 16th comment deadline.

In addition, Delaware Riverkeeper Network urges Philadelphia Council to publicly and strongly call on the DRBC to put on hold the regulatory process until the science is completed. This is currently included as Point 6 under the general recommendations in the resolution and this point now needs to be elevated by the Council to protect public health. By starting the clock and the comment period, the Delaware River Watershed could have hydro-fracking and drilling begin as soon as the summer months and this is unacceptable. As you both have wisely stated in your March 25th resolution and October 15th letter to DRBC, this is clearly putting the “cart before the horse.” The precautionary principle and points articulated by Dr. Boufadel and other experts are at complete odds with DRBC’s recent actions to release the drilling regulations.

Another blow to protection of our drinking water and the river at the December 8th DRBC meeting pertained to DRN’s and Damascus Citizens for Sustainability’s (DCS) legal challenge of the allowance of the so-called exploratory natural gas wells. A set of expert reports were commissioned by DRN and DCS and submitted for the administrative hearing. The reports are available to the public at DRN’s website:

http://www.delawariverkeeper.org/resources/Reports/DRN_DCS_Expert_Reports.pdf
http://www.delawariverkeeper.org/resources/Reports/DRBC_Expert_Reports_Gas.pdf

But in a last minute attempt led by the drillers, the DRBC voted to throw out the legal challenge and rescind the agreed upon administrative hearing that was to be heard in January regarding the 11 exploratory natural gas wells that were allowed to move forward without DRBC review and regulation in the Watershed (see the attached Dec 6, 2010 DRN Press Statement). DRN and DCS have since filed an appeal of the DRBC action to the federal court on January 21st.

Finally, we cannot emphasize enough the fast pace development drillers will pursue in the Special Protection Waters of the Delaware River if regulations are finalized and permitting begins. At least 80% of the land in Wayne County has been leased for drilling. Looking at the state PA DEP records, and observing drilling to the west of us in Pennsylvania and outside of the Delaware River Watershed, the pace of permitting and drilling is exceedingly picking up and fast tracked. For example, from January – November, 2010, 2,910 Marcellus Shale permits were issued to drill by PA DEP (with a total of 5,944 permits that also includes Non-Marcellus wells). 584 new permits were approved by DEP in the month of November 2010

alone! Of those 584, 315 were Marcellus Shale permits. Meanwhile, the problem of disposing of millions of gallons of brine wastewater from the drilling industry is another dilemma. The AP reported PA state records indicate at least 3.6 million barrels of frack wastewater were sent to treatment plants that empty into rivers during the 12 months ending June 30, 2010. That is enough to cover a square mile with more than 8 1/2 inches of brine. On January 4, the AP news uncovered the illegal discharge of 44,000 barrels of frack wastewater that was being discharged into Neshaminy Creek from a Hatfield Wastewater Treatment Plant beginning in 2009 thru June 2010. Both the PA DEP and the DRBC were unaware of this illegal acceptance and discharge of this flowback water from Cabot Oil & Gas for many months – contaminated water containing hundreds of chemicals that was trucked many miles from the shale region to this treatment facility in Bucks County that flowed into the Delaware River. DRN has called on DRBC to use its authority to take strong action against Cabot Oil & Gas in its duty to protect the Basin.

These recent developments and the pace of permitting helps illustrate the need for strong commitment and work from downstream leaders like Philadelphia City Council to urge the DRBC and the Governors of NJ, PA, and DE back on track and protect the water supply for the over 1.5 million Philadelphians that rely on the Delaware and Schuylkill Rivers for drinking water. We look to you now, to speak out publicly and pass this resolution with all recommendations, ensure a Philadelphia public hearing takes place before March 16th, and engage the DRBC publicly to stop the regulatory process until the science is completed. The residents of Philadelphia need your help now more than ever and we appreciate all you do and continue to do to shine the light on this important matter affecting the great city of Philadelphia.

Sincerely,

Tracy Carluccio
Deputy Director
Delaware Riverkeeper Network

cc. District Council Members
Councilman Frank DiCicco
Council President Anna Verna
Councilwoman Jannie Blackwell
Councilman Darrell Clarke
Councilwoman Joan L. Krajewski
Councilwoman Maria D. Quinones-Sanchez
Councilwoman Donna Miller
Councilwoman Marian B. Tasco
Councilman Brian J. O'Neill
Councilman W. Wilson Goode, Jr.
Councilman Jack Kelly
Councilman Bill Green
Councilman James Kenney
Councilwoman Frank Rizzo, Jr.