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Delaware Riverkeeper Network Announces Settlement That Secures Some Reforms In How Pennsylvania Reviews and Regulates Gas Drilling

Bristol, PA – The Delaware Riverkeeper Network (DRN) announced the settlement of an appeal DRN filed with the PA Environmental Hearing Board concerning one of the first shale gas wells drilled in the Delaware River Basin. The well is a vertical gas well and was not hydraulically fractured.

The appeal -- filed in coordination with Damascus Citizens for Sustainability and local residents -- involved the Newfield Appalachia PA, LLC “Woodlands” well in Damascus Township, Wayne County, Pennsylvania. The well is located within the Hollister Creek watershed, a designated Special Protection High Quality (HQ) watershed. The project is also within the Upper Delaware River Basin and is approximately 0.43 miles from the Delaware River. This section of the Delaware River Watershed is located within the Upper Delaware Scenic and Recreational River, a National Wild and Scenic River.

During the course of the appeal, DRN conducted depositions of DEP personnel involved in approval of the well permit. As a result of these depositions, DRN was able to establish that for well projects with under five (5) acres of earth disturbance, the Department has not considered the potential impacts of these projects on special protection watersheds. DRN was also able to establish that for the wells that have been drilled within the Delaware River Basin, the Department has not considered the potential impacts of those wells on the Delaware River or the Delaware River Basin. Further, DRN established that Department personnel who are responsible for reviewing permit applications have spent, on average, less than thirty-five (35) minutes per permit prior to granting final authorization.

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As part of the settlement of this appeal, DRN and the other appellants were successful in obtaining important programmatic changes. These changes will improve how future well permits are processed throughout Pennsylvania and will provide greater protection to Pennsylvania's high quality and exceptional value watersheds.

"Pennsylvania's regulatory program is demonstrably deficient when it comes to protecting waterways and communities from gas drilling, this litigation and our depositions just highlighted a few of those pitfalls. Our settlement definitely secured important improvements to the review process, but we are under no misconception that this is in any way the cure for gas drilling in the Commonwealth," said Maya van Rossum, the Delaware Riverkeeper.

"The DEP needs to do a better job of reviewing permits, rather than just using its rubber stamp. This settlement will help make that happen," said Jordan Yeager, lead attorney on the case for the Delaware Riverkeeper Network and with the firm Curtin & Heefner.

Under the terms of the settlement, DEP has agreed that for future shale gas projects in special protection watersheds (designated or existing use of High Quality or Exceptional Value pursuant to 25 Pa. Code Chapter 93), applicants must demonstrate compliance with the Commonwealth's anti-degradation regulations prior to the commencement of any earth disturbance activities. Prior to this settlement, for projects under five (5) acres, the Department was not requiring applicants to demonstrate this.

Further, under the settlement, DEP has agreed to revise its "Coordination of Resources" form and instructions by: 1) listing all Pennsylvania rivers designated under the Federal Wild and Scenic Rivers program, including the Delaware River; and 2) including a definition of what constitutes the river corridor under the federal designation, in accordance with the Federal Wild and Scenic Rivers Act, 16 U.S.C. §1271 *et seq.* This change will help ensure that in future permitting decisions, the DEP will consider the potential impacts of gas drilling projects on the Delaware River and on other rivers designated under the federal Wild & Scenic Rivers program.

The Upper and Middle Delaware River, designated by Congress as Wild and Scenic in 1978, is underlain by Marcellus and Utica shales which have been heavily leased for gas drilling. The current moratorium in the Delaware River Watershed, established by the Delaware River Basin Commission (DRBC) in May 2010, has prevented gas development from moving ahead in the Basin. DRBC is considering the adoption of natural gas regulations, which would lift the moratorium. DRN and a large and diverse public have criticized the draft regulations as wholly inadequate and oppose their adoption, calling for a comprehensive environmental study and cumulative impact analysis. For more information about gas drilling and fracking go to: www.delawariverkeeper.org

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