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Delaware Riverkeeper Network
Releases Talking Points for DRBC Hearings on
Draft Natural Gas Development Regulations

Bristol, PA – Delaware Riverkeeper Network (DRN) is preparing extensive comment for the record that will be submitted to the Delaware River Basin Commission regarding the proposed shale gas development regulations that the DRBC released for public review on December 9, 2010. The public comment period closes March 16, 2011. In preparation for the comment, DRN has engaged technical experts to review the draft regulations and will use the information to craft the organization's comment to the agency.

In the meantime, the DRBC set Public Hearings on the draft gas rules – February 22 in Honesdale, PA and Liberty, NY, and February 24 at Patriots Theater at the War Memorial, 1 Memorial Drive, Trenton, NJ. All hearings held from 1:30-5:00pm and 6:00-9:00 pm. (for more detail see the DRBC website:

http://www.state.nj.us/drbc/notice_naturalgas-draftregs.htm)

“These Hearings are critical opportunities for people to directly express to the DRBC their thoughts and input regarding the draft shale gas rules. Even though each person only has two minutes, verbal testimony is a powerful way to get your point across. We encourage people to invest the time it takes to come to a Hearing and say your piece”, said Maya van Rossum, the Delaware Riverkeeper. “We also call on the DRBC to extend the comment period by at least 3 months and to hold more hearings to allow for more input, especially in large population areas where people drink Delaware River water, such as Philadelphia and New York City. The decisions being made here will affect the River and our communities for generations to come; the public must have ample opportunity to take part”, added van Rossum.

To help people prepare for the Hearings, DRN has issued suggested Talking Points on the draft rules (see below).

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Said Tracy Carluccio, Deputy Director for DRN, “Hundreds of people came out to speak at the Honesdale and Liberty hearings this week, showing deep public interest in this issue. These complex regulations need full analysis by experts and the public alike—90 days is simply not enough time when there is so much at stake.”

For more information about the Hearings and how to submit written comment:

<http://www.delawareriverkeeper.org/act-now/urgent-details.aspx?id=66>

Suggested Talking Points on the DRBC Draft Natural Gas Development Rules

- ✓ The DRBC is charged with a legal mandate to “Do No Harm” to the Special Protection Waters of the Delaware River. DRBC MUST maintain the exceptional water quality that now exists in the River and improve it where it needs help. These draft rules fall far short of meeting that high bar even though they have some proposals that are stricter than the states’, a good start in some areas—but just a start. The draft rules simply do not overcome the handicap caused by rushing the rules forward without needed scientific studies. The rules do not protect from the risk of catastrophic harm from individual wells nor do they address the cumulative impacts of water withdrawal and well development; there is no method proposed to control the accumulated environmental toll that natural gas drilling, land transformation, and water depletion and pollution will take on habitats, streams, communities and the River.
- ✓ There are no spacing requirements for the tens of thousands of wells expected that would limit how many wells can be drilled and how close they can be to each other, facilitating an industrial landscape. Proposed Natural Gas Development Plan thresholds are too high—much gas development will not be captured and it is not clear how the plans will address individual and cumulative impacts. How will the loss of freshwater flows from the headwaters and the destruction of the now 89% forested Upper Delaware affect water quality, clean drinking water, habitats and ecology downstream?
- ✓ The draft rules do not place any restrictions on the chemicals that drillers can use to drill and hydraulically fracture (“frack”) gas wells. Considering the hundreds of dangerous chemicals that are used, many of them carcinogenic and hazardous, and the fact that diesel fuel, a toxic substance, is being used in some areas to stimulate gas extraction, the DRBC’s “hands off” approach to this central aspect which they could rightfully regulate is irresponsible. The DRBC proposes to ask for full disclosure of all fracking formulas, a good step, but the same cloak of secrecy for frackers will remain in place since the DRBC will honor companies’ request for trade secrecy protection to shield frackers from public exposure. Why isn’t the DRBC prohibiting the use of contaminants in gas extraction processes or at least waiting for the EPA to finish its study of hydraulic fracturing practices to protect drinking water? If the DRBC isn’t going to publicly disclose the formulas themselves then why don’t they prohibit the use of secret fracking chemicals?
- ✓ The draft rules do not prescribe wastewater standards for all of the specific constituents of gas drilling wastewater; under the draft rules the removal of all toxic substances won’t happen. Many highly dangerous chemical hazards are in gas drilling wastewater and because of the federal exemption from disclosure, they are not all known. But hundreds are listed in NY’s Draft Supplemental Generic Environmental Impact Statement and at the Endocrine Disruption Exchange. DRBC does propose a treatability study for waste fluids before a plant can accept it and acute toxicity testing for treatment systems, which is not required by the States, and they list some of the hazardous chemicals regulated by safe drinking water rules that they want wastewater tested for but they allow for waivers, weakening the rule, employ a minimal Total Dissolved Solids standard, and have left off key parameters such as radon, hydrogen sulfide and chemicals that are synergistically formed in the wastewater such as 4 Nitroquinoline 1-oxide (4NQO), one of the most powerful carcinogens known. How can the DRBC move ahead without comprehensive control of this toxic wastewater?
- ✓ The draft rules rely on weak State regulations in many areas:
 - ❖ Due to a federal exemption under the Clean Water Act, stormwater management that’s required for all other earth disturbance greater than an acre is not required for gas development and PA goes even further and exempts gas and oil activities from many key areas of stormwater, erosion and nonpoint source pollution control requirements. DRBC acquiesces entirely to the lack of requirements by deferring to state standards; this will ruin streams, smother habitats, kill fish and degrade water quality and drinking water. This gross oversight alone could violate the “no measureable change in water quality” standard that the DRBC is required to maintain in Special Protection Waters.
 - ❖ Drilling, cementing and casing construction and safety is totally sidestepped by the DRBC by deferring to state standards, despite Pennsylvania’s substandard Chapter 78 requirements. The lack of adequate construction safety standards, in some cases even below industry standard, is causing pollution incidents, well blowouts, stray gas

migration and more throughout Pennsylvania. How can the DRBC bury its head in the sand when it comes to safety? Isn't that what led to the BP Oil well disaster in the Gulf last year?

- ❖ Air pollution from gas wells and wastewater impoundments is not addressed at all by the DRBC, despite PA's exemption of gas wells from air standards. NY's Draft Supplemental Generic Environmental Impact Statement identifies large amounts of hazardous air pollution (methanol) and other pollutants that will violate NY's air emission standards. In Texas http://www.edf.org/documents/9235_Barnett_Shale_Report.pdf and other areas, gas extraction and production is degrading air and human health. Yet DRBC leaves this matter to the States, despite the fact that air pollution deposits on land and water, causing both air and water pollution far from the source.
- ❖ The States have totally inadequate setbacks between gas well activities and water bodies, water wells, homes and other vulnerable features. Setbacks from homes, public buildings, public roads, public water supply wells and domestic water supply wells are all left out of DRBC oversight and relegated to inadequate state setbacks that have resulted in pollution incidents from gas drilling throughout Pennsylvania (most notably, US Environmental Protection Agency is investigating water well pollution in Dimock and Bradford County, PA). DRBC proposes a 500 foot setback of gas well pads from water bodies, wetlands, surface water supply intakes and water supply reservoirs and prohibits well pads in the DRBC's defined "floodway" and advises none in the "flood hazard area" (a variance may be granted), which is stricter than PA or NY requirements. Nonetheless, more protective requirements are needed.

All setbacks should be measured from the end of the horizontal well bore, as well as from the vertical well bore, since hydraulic fracturing will introduce contaminants and cause fracturing throughout the horizontal bore zone. Setbacks should be based on a minimum 300 foot buffer beyond the floodplain/flood hazard area as defined by riparian soils (when that distance is greater than 500 feet) to assure adequate protection for streams and to prevent flood damages. Water supply intakes and reservoirs need protection based on drainage patterns and the condition of the setback area (such as slope and vegetation) in order to provide needed buffering so distances need to be calculated on a site by site basis, not a cookie cutter 500 foot radius.

- ❖ DRBC expressly allows centralized wastewater storage facilities and defers to State standards for them. In NY's Draft Supplemental Generic Environmental Impact Statement, impoundments as large as 40 acres are anticipated and operators are building huge impoundments in Pennsylvania now. One of the major sources of air pollution is from these wastewater impoundments, from which toxic contaminants volatilize to the air, then are breathed in or deposited on soil and water, causing highly mobile pollution. Further, DRBC proposes no setback requirements for impoundments, deferring to the states. For on-site pits up to 250,000 gallons, PA's setbacks are the same as for gas wells, which is only 100 feet from a water body, as close as 20 inches above the seasonal high water table and no mention of a setback from a water supply well. How can the DRBC allow centralized pits to hold gas drilling wastewater when they don't allow open pits for wastewater on well sites?
- ✓ The rules would allow for fast track approvals (Approval by Rule) with streamlined Executive Director review and without public input for much gas drilling and some water withdrawals. This loophole will lead to the "death by a thousand cuts". Speeding up gas development has led to communities and the environment suffering huge numbers of violations on well sites. 2,755 natural gas wells were drilled in PA in 2010; in the same timeframe, 2,486 violations were noted by PADEP. How can DRBC allow this breakneck speed when charged to maintain the River's exceptional quality?
- ✓ In the absence of a cumulative impact study, all stream data for all parameters including water chemistry (real time and grab samples), benthics, fish, mussels, must be commenced at least one full year before drilling can begin and the cost of this work must be borne by the drillers. Stream sampling must be established around the entire drilling zone beyond the vertical well pad and must also include reference site monitoring.
- ✓ The public opportunity in the rulemaking is inadequate and more hearings and a longer comment period is needed to provide adequate time to review & digest the proposed rules; the public needs to be involved. Expanding the opportunity for the public to participate is absolutely essential in order to make this a meaningful rulemaking process. The public is actively engaged and has shown deep interest on this issue – more than 8000 letters in 8 months last year; thousands more letters are being submitted now calling for extension of the comment period and more hearings; six PA Delaware Valley legislators just sent letters to you, New York City and Philadelphia City Councils passed resolutions, Congressmen Maurice Hinchey (NY) and Rush Holt (NJ), and Mayor Michael Bloomberg (NYC) have sent letters asking for you to wait for the science, and hundreds of people are speaking up at meetings and hearings. DRBC needs to extend the public comment period by at least another 120 days and hold Hearings in New York City, Philadelphia, and more Hearings close to where people live.

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