



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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April 14, 2011

Carol R. Collier, Executive Director
Delaware River Basin Commission (DRBC)
25 State Police Drive
PO Box 7360
West Trenton, New Jersey 08628-0360

Re: Natural Gas Development Regulations

Dear Ms. Collier:

I wish to reiterate New Jersey's position regarding natural gas development activities in the Delaware River Basin. We will vigilantly ensure that our water supply is adequately protected and the natural values of the Basin are preserved. We will insist that natural gas regulations as ultimately promulgated by the DRBC guarantee the supply and quality of the Delaware River water, on which New Jersey relies for one-quarter of our drinking water. We require that: (1) there will be proper management and disposal of the waste material derived from the hydraulic fracturing (fracking) process, (2) sources of water from the Basin required for the extraction activity must be sustainable, and (3) water diversions must not cause adverse impacts to other water users or the environment. Without these conditions in place, natural gas development activities in the Delaware River Basin will be unacceptable.

While protecting the water supply and quality in the Basin is paramount, New Jersey recognizes the significant positive economic impact that the development of this natural gas resource will have on the DRBC states. We also recognize the important role that the development of Marcellus Shale natural gas plays in the energy security of the United States and as a cleaner fuel source than coal or oil.

New Jersey generally supports the natural gas regulations and rigorous standards that have been drafted by the DRBC. They strike an appropriate balance between deferring to state jurisdictions and ensuring strong protection to the Delaware River and downstream communities. For instance, the required natural gas development plans, once adopted, will allow for more

comprehensive reviews of natural gas development in the Basin. Setback requirements of the wells from water bodies will ensure a measure of protection from spills and accidents. Also, the DRBC has endeavored to clearly articulate the entire wastewater management process including capture, transport, treatment and disposal of the fluids.

However, natural gas development activity within the Basin is expected to be extensive and potential risks to the environment and public health are significant. Many of these risks cannot be fully understood until the regulations are in place and natural gas development in the Delaware River Basin is underway. Therefore, New Jersey insists that once the regulations are adopted, the DRBC must stage the approval of well pads.

The proposed regulations must include a provision that the DRBC approve no more than 30 production well pads, not to exceed 300 production wells in total, in the two years immediately following adoption of the regulations. At that time the DRBC will assess the impact of these wells before further drilling can occur. This will provide time for the effectiveness of the regulations to be evaluated and will minimize impacts in the event that natural gas development poses risks that were not fully appreciated when the regulations were drafted. Staging such approvals also will allow time for the DRBC to acquire and train a sufficient number of staff members to ensure that are performed properly.

In addition, the United States Environmental Protection Agency (EPA) recently submitted a draft study on fracking and drinking water to their Science Advisory Board for review. Preliminary results are expected in 2012, with a final report anticipated in 2014. Should DRBC or EPA find that the activity is resulting in problems that were not envisioned, the DRBC will be able to correct such problems before a larger number of projects are approved.

New Jersey remains particularly concerned with wastewater discharge from fracking. The DRBC has in place adequate rules and standards for those contaminants that are currently regulated. For those contaminants that are currently unregulated, New Jersey supports DRBC's effort to establish Special Protection Waters standards for the receiving waters in the middle and lower Delaware that are expected to be impacted by fracking operations including wastewater disposal. Until water quality criteria for unregulated contaminants are established, DRBC must monitor the interstate control points and the boundary controls to ensure that fracking operations do not cause a change to the existing water.

New Jersey will not agree to any discharge of fracking wastewater until such time as the discharge can be shown to be protective of water quality, or it can be demonstrated that the wastewater will not upset, pass through, or interfere with the operations of the receiving wastewater treatment facility or its sludge management. New Jersey opposes the importation of fracking wastewater that was treated outside the Basin until we gain experience with the effectiveness of treatment and can determine the ultimate impact on water quality in the Basin.

The DRBC regulations also must require that drilling companies reuse fracking wastewater. Wastewater treatment must be the last course of action.

New Jersey plans to continue our active participation in DRBC's drafting of the natural gas regulations. We reserve the right to offer further guidance and recommendations after all public comments are received and analyzed, and will monitor closely the drafting process until the regulations are finally adopted.

In conclusion, New Jersey believes it is imperative that DRBC move cautiously when authorizing the development of natural gas in the Basin. If done properly, this natural gas resource can help meet the nation's energy needs, but we must, work toward guaranteeing that the environmental integrity of the Delaware River Basin is forever protected.

Sincerely,

Bob Martin
Commissioner