



April 12, 2010

Paula Schmitt, Secretary  
Delaware River Basin Commission  
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Re: Draft Docket Nos. D-2009-013-1 and D-2009-018-1 (Stone Energy Corporation)

Dear Ms. Schmitt and Members of the Delaware River Basin Commission:

Earthjustice urges the Delaware River Basin Commission (“DRBC” or the “Commission”) to defer any consideration of Stone Energy Corporation Docket Nos. D-2009-013-1 and D-2009-018-1, until the Commission has completed a comprehensive analysis of the cumulative environmental impacts that can be expected from shale gas development in the Basin, including all consumptive and depletive uses and out-of-basin diversions. In our view, a rigorous environmental review may well dictate that all or some of the Delaware River watershed be placed off limits to gas extraction projects. Moreover, if gas exploration and production is allowed to proceed in the Basin, it should not be permitted until the DRBC has promulgated new regulations guarding against degradation of special protection water resources, including drinking water supplies and aquatic habitat.

Shale gas development has been proceeding at breakneck speed in Pennsylvania, without adequate regulation. As a result, both groundwater and surface waters throughout the Marcellus Shale region have been contaminated by methane intrusion, leaks or spills of fuel and chemical additives, and discharges of untreated toxic wastewater. The Monongahela River is now impaired by elevated levels of total dissolved solids (“TDS”), and high TDS levels were responsible for wiping out aquatic life—including endangered mussels—in 26 miles of Dunkard Creek.

As a result, the Pennsylvania Department of Environmental Protection (“DEP”) is now scrambling to avert further environmental disasters by proposing amendments to no fewer than four chapters of the Pennsylvania Code: Ch. 78 (oil and gas wells), Ch. 93 (water quality standards), Ch. 95 (wastewater treatment), and Ch. 102 (erosion and sediment control). The DRBC should learn from the mistakes made by DEP and halt all gas extraction project approvals, until the Commission has fully investigated the cumulative impact of exploration and production in the Basin and has promulgated regulations designed to prevent degradation

of its special protection waters. Certainly no such approvals should be issued for projects in Pennsylvania until DEP has completed its four rulemakings and has raised the environmental baseline for gas development in the Commonwealth. Once the final regulations become effective law, the DRBC should consider augmenting the minimum standards set by DEP to ensure that the sensitive resources of the Delaware River Basin are fully protected.

In addition, Congress and the U.S. Environmental Protection Agency (“EPA”) have recognized that we lack sound scientific information about the safety of processes used in shale gas development. Congress therefore has directed the EPA to study the impacts of hydraulic fracturing on drinking water. Although the precise scope of EPA’s investigation has not yet been determined, even a narrowly defined research project should illuminate both the toxicity of fracturing fluids and potential exposure pathways of contaminants. The study is expected to be completed in 2012. The DRBC should not issue approvals for gas extraction projects in the Basin until it has had an opportunity to conduct a critical review of the EPA research.

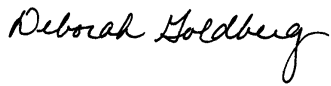
In addition, Congress has learned that major service companies, including Halliburton and B.J. Services, have failed to secure federal permits before using diesel fuel to stimulate oil and gas production, in violation of the Safe Drinking Water Act. The components of diesel that make it too hazardous to use without protective federal permits are elements of many additives that are approved and used for hydraulic fracturing in Pennsylvania and New York, without those protections. The DRBC should ban the use of petroleum distillates and other fluids containing high levels of benzene, a known carcinogen, in any hydraulic fracturing that may take place within the Delaware River Basin. The Commission also should consider, on the basis of the EPA study and its own cumulative impact analysis, whether all toxic chemicals should be excluded from drilling and fracturing fluids used in the Basin. At the very least, each DRBC approval of a gas extraction project should be conditioned on public disclosure of every component of every additive used at the project site.

In sum, there is far too much that we do not know about the risks posed by shale gas development to permit drilling or fracturing to proceed in the Delaware River Basin in the near future. The precautionary principle demands that the Commission defer granting any gas extraction project approvals until rigorous research into the cumulative health and environmental impacts of gas exploration and production is completed. That research should provide the basis for state-of-the-art DRBC regulations and changes to the Commission’s Water Code to safeguard the quantity and quality of special protection waters in the Basin. Experience throughout the nation’s gas drilling regions has demonstrated that proceeding without the benefit of sound science will present serious threats to the drinking water supply of 15 million people and the habitat of precious, biodiverse streams.

With respect to the Stone Energy Corporation applications, in particular, Earthjustice refers the Commission to the detailed technical comments submitted by the Delaware Riverkeeper Network. Given the deficiencies of those applications, the known inadequacy of the current

regulatory framework, and the prevailing scientific uncertainty about the risks of gas development, the DRBC should deny the requested approvals and defer any consideration of amended applications until the EPA study and a Basin-wide cumulative impact assessment are completed and new regulations are promulgated.

Respectfully submitted,

A handwritten signature in cursive script that reads "Deborah Goldberg".

Deborah Goldberg  
Managing Attorney