



Sierra Club Pennsylvania Chapter

P.O. Box 606

Harrisburg, PA 17108

April 10, 2010

Stone Energy Energy Corporation (Draft Dockets D-2009-13 and D-2009-18-1)

Dear Delaware River Basin Commissioners,

The Delaware River Basin Commission (DRBC) is considering a critical decision about the future of natural gas drilling operations in the Delaware River Basin. The two DRBC permits under review would allow Stone Energy Corporation to hydraulically frack its existing vertically oriented natural gas well and to withdraw 700,000 gallons of water per day from the West Branch of the Lackawaxen River.

DRBC should not approve any permits for natural gas related projects, including gas wells, water withdrawals, treatment facilities, etc., until it has adopted specific regulations to protect the river basin from the environmental effects of drilling.

The Pennsylvania Department of Environmental Protection is in the process of revising and adopting new construction and safety standards for natural gas wells. This process will strengthen regulatory oversight of the oil and gas industry. In particular, it will prevent the many accidents that the oil and gas industry has been experiencing in drilling wells. No permits should be approved until these regulations have been implemented by DEP.

DRBC needs to adopt changes to its Water Code for the Flexible Flow Management Plan that is being developed for the main stem of the Delaware River before allocating water flows from the River and its tributaries.

Even with the good management practices, accidents occur at oil and gas drilling sites. Fluids and wastewater leak into surface streams and into groundwater. Public disclosure of all chemicals that will be used in hydraulic fracturing should be required; no use of toxic, hazardous, or potentially dangerous chemicals should be allowed.

Stone Energy must complete a build out analysis documenting the wells to be served by the water withdrawn to justify need and to define the "area served."

DEP is in the process of adopting effluent standards for certain gas drilling wastewater contaminants. Since Stone Energy has not specified how wastewater is to be disposed of, other than stating it will be taken to an "approved treatment facility," DRBC should ensure that the proposed effluent standards are being met, regardless of the disposal location.

Gas well development inevitably involves earth disturbance and stormwater runoff. DEP permits do not adequately control stormwater runoff in special protection waters. DRBC should require Stone Energy to submit for the public comment period a nonpoint source pollution control plan that meets Special Protection Waters anti-degradation requirements.

The pass-by flow in the West Branch must be based on the ecological needs of the living resources of the stream and downstream water users, not based on a simple 25% formula. DRBC is developing an ecological flow model for the watershed's streams based on habitat needs and this should be adopted prior to any approval for withdrawal from the watershed's waterways. DRBC should undertake a comprehensive analysis that includes the cumulative effects of the water resource impacts of this and other forthcoming applications for water withdrawal.

Sound water management policy disfavors interbasin transfers of water. In the Stone Energy proposed permits, DRBC is requiring the wastewater from Stone Energy's operations to be transported out of basin for discharge. It does not appear that Stone Energy has filed an application for an interbasin transfer of water, as required by Commission rules.

Congress enacted the Clean Water Act (Act) in 1972. Its stated objective was "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 86 Stat. 816, 33 U. S. C. §1251. To serve those ends, the Act prohibits "the discharge of any pollutant by any person" unless done in compliance with some provision of the Act. §1311(a). The provision relevant to this case, §1342, establishes the National Pollutant Discharge Elimination System, or "NPDES." Generally speaking, the NPDES requires dischargers to obtain permits that place limits on the type and quantity of pollutants that can be released into the Nation's waters. The Act defines the phrase "discharge of a pollutant" to mean "any addition of any pollutant to navigable waters from any point source." §1362(12). The Supreme Court's decision in South Florida Water Management District v. Miccosukee Tribe, 541 U.S. 95, 105 (2004), suggests that the interbasin transfer of polluted water is subject to the permit requirements of the Clean Water Act. Without additional permitting for transfers of polluted waters, our nation's water quality could be seriously impaired. Such an approach would open the door to the transfer of salt water into fresh water basins; the pumping of warm, sediment-laden lake water into a high quality trout stream with cold and clear water; and the man-induced drainage of collected waters containing high levels of polluted wastewater, including chlorides and sulfates, into separate and sensitive watersheds.

For these reasons, the Pennsylvania Chapter of the Sierra Club believes that DRBC should not grant approval of the Stone Energy permits.

Sincerely,

Thomas Y. Au and Barbara Benson
Co-chairs
Water Issues Committee
Pennsylvania Sierra Club