



Elizabeth Maclin

Vice President for Eastern Conservation

Dave Rothrock

President, Pennsylvania Council of Trout Unlimited

April 12, 2010

Carol Collier, Executive Director
Commissioners
Delaware River Basin Commission
P.O. Box 7360
25 State Police Drive
West Trenton, NJ 08628-0360

Re: Docket No. D-2009-13-1 & Docket No. D-2009-18-1, Stone Energy Corporation

Dear Executive Director Collier and Commissioners:

Trout Unlimited (TU) and the Pennsylvania Council of Trout Unlimited urge the Delaware River Basin Commission (DRBC) to postpone the approval of the Stone Energy Corporation (Stone Energy) draft permits for gas drilling activities in Wayne County, Pennsylvania until the DRBC has adopted (1) new regulations that include an analysis of and take into account the anticipated cumulative impacts of all gas drilling activities in the Delaware River watershed; and (2) an ecologically protective flow management plan for the river.

In fact, prior to approving *any* permits for Marcellus Shale gas drilling activities, the DRBC should complete its rulemaking process for natural gas extraction in order to accurately assess the impacts to and avoid degradation of the Delaware River watershed. Such a rulemaking process should consider the estimated impacts of a comprehensive build out of all wells, water withdrawals, and waste water discharges throughout the entire Delaware River watershed. Only when those estimated impacts have been determined, will the DRBC be in the position to develop regulations that adequately protect the Delaware River and its communities, fish, and wildlife.

Further, to ensure adequate protection of the ecologically and recreationally significant water resources of this watershed, it is imperative that the DRBC consider the additional following concerns prior to issuing any permits for Marcellus Shale gas drilling activities, including those proposed by Stone Energy Corporation. Pennsylvania's Department of Environmental Protection is in the process of: (1) making changes to its regulations governing oil and gas well construction; and (2) amending its wastewater treatment requirements, including the establishment of new effluent limits for new wastewater sources such as flowback

Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization
Washington, D.C. Headquarters: 1300 North 17th Street, Suite 500, Arlington, VA 22209
(703) 284-9437 • FAX: (703) 284-9400 • email: emaclin@tu.org • <http://www.tu.org>

water from hydraulic fracturing. No permits should be issued by the DRBC until both of these amended requirements go into effect.

TU's concerns specific to Stone Energy's draft permits

The Stone Energy draft permit proposes to approve an allocation of a maximum of 700,000 gallons per day or a total of 21 million gallons over a consecutive 30-day period. The water is to be used for natural gas development and extraction activities in Marcellus and other shale formations in the Delaware River Basin in Pennsylvania. The DRBC's Executive Director Determination stated that natural gas development was expected to have the potential to negatively impact the water resources of the Delaware River Basin's Special Protection Waters, which includes the West Branch of the Lackawaxen River and that the DRBC would review and condition approvals based on avoiding the degradation of these exceptional waters. Yet the impact of this consumptive withdrawal on water supply, wildlife, fish, and aquatic life is unknown and has not been analyzed. The approval of Stone Energy's water withdrawal permit should be postponed until the amount of water that can safely be withdrawn without degrading natural resources is calculated on a sub-watershed basis (the West Branch Lackawaxen) for a period of five years (the proposed timeframe for Stone Energy's permit), at a minimum.

The approval of Stone Energy's permits should be postponed until all of the well permits that will be served by the water withdrawal are also under reviewed and considered for approval. The "Area Served" (i.e., well locations) for DRBC approved water withdrawal permits are supposed to be geographically defined. Yet Stone Energy's draft permit only defines one area served, well M-1. Approving the water withdrawal permit separate from the well permits, results in a piecemeal review, and ultimately may result in otherwise preventable negative impacts on the Delaware River watershed. The full "Stone Energy Project" (water withdrawal, wastewater disposal, all wells to be developed within their lease holdings) should be reviewed for all wells Stone Energy plans to develop over the life of its permit (five years) and the gas extraction activities should then be designed to avoid degradation of Special Protection Waters and downstream uses in the Delaware River watershed.

Another reason why the "Area Served" must be defined is because a Non-Point Source Pollution Control Plan is required for project service areas located within the drainage area of Special Protection Waters (Water Code Article 3.10.3.A.2.e.1) and 2)). Until all of the Stone Energy well locations where the withdrawn water will be used are identified and permitted, the DRBC has no way to determine which project service areas will require Non-Point Source Pollution Control Plans. Pollution from runoff constitutes a significant threat to the water quality of the West Branch of the Lackawaxen River, and more broadly to the water quality of the main stem Delaware, located just downstream. Thus the approval of Stone Energy's water withdrawal permit should be postponed until the entire "Area Served" is known.

Further, Stone Energy did not submit an adequate Non-Point Source Pollution Control Plan for its proposed water withdrawal site and facilities and the corresponding gas shale wells. Yet the Draft Docket proposes to allow Stone Energy to submit a future Non-Point Source Pollution Control Plan as a condition of permit approval. Ultimately, this action by the DRBC removes the Non-Point Source Pollution Control Plan from public review through the Public Hearing process that has been instituted for the Stone Energy's application. The approval of Stone Energy's draft dockets should be postponed until all required Non-Point Source Pollution Control Plans have been filed with the DRBC and put out for public review and comment.

The use of 25 percent of the average daily flow to develop the passby flow for the withdrawal limits for Stone Energy's water withdrawal application, as is proposed in the Draft Docket, is not protective enough to prevent degradation of the water resources of the West Branch Lackawaxen River and the Basin's Special Protection Waters. An alternative method of setting a passby flow that takes into account the ecological flow requirements for fish and other aquatic life must be developed. Efforts to develop a more protective and ecologically sensitive flow regulation method through the Flexible Flow Management Plan are already underway by the DRBC. Until that rulemaking process is complete, it is premature to approve passby flows based on using 25 percent of the average daily flow. The approval of Stone Energy's water withdrawal permit should be postponed until the Flexible Flow Management Plan process is complete.

In conclusion, TU submits that no permits should be processed until the DRBC has completed rulemaking for natural gas extraction activities. New York state has declined to approve any Marcellus Shale well permits while it updates the state EIS to incorporate impacts specific to horizontal fracturing; the DRBC should take the same approach and postpone the approval of any water withdrawals for Marcellus Shale developments until its public rulemaking process is complete and all issues (including cumulative impacts and ecological flow management) are properly evaluated and addressed by the new regulations that will be enacted.

It is the responsibility of the DRBC to ensure proper management and protection of the Delaware River basin's water resources, especially those listed as Special Protection Waters. As such, the DRBC must complete the proper scientific analyses and put in place adequate regulations before making decisions that could negatively impact the Delaware River basin's water resources. Thank you for consideration of TU's comments. If you have any questions, please do not hesitate to contact me at 703.284.9437 or emaclin@tu.org.

Sincerely,



Elizabeth Maclin



Dave Rothrock