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BASIN COMMISSION

2011 MAR -7 P 12:20

TO: Commission Secretary: Delaware River Basin Commission

FR: The Buffalo Creek Watershed Association

DA: February, 28 2011

RE: Delaware River Basin Commission: Natural Gas Development Regulations

The purpose of this correspondence is to **applaud** the vision and responsible action of the Delaware River Basin Commission in the crafting of Article 7 of the *Part III Basin Regulations – Natural Gas Development Regulations*.

The proposed *Natural Gas Regulations* reflect an outstanding commitment to the natural resources of our state. The regulations contain the standards, requirements, conditions, and restrictions critical to an efficient and effective mechanism capable of preventing, minimizing or mitigating the depletion and degradation of surface and ground water resources; and, to promoting sound, evidence-based practices of watershed management.

As residents of the Commonwealth we have a vested interest in the preservation and protection of our natural resources anywhere and everywhere within the state and its surrounding borders. While we are located distantly southwest of the Delaware River Basin, given the interconnectedness of our waterways, what affects our eastern neighbors has the potential to ultimately affect us as well.

We, too, are being besieged by the multifaceted activities of natural gas exploration and production. Unfortunately, we here in the western counties of the state have fallen victim to a disproportionate level of environmental protections that are placing the quality and quantity of our water and the health and welfare of our residents, livestock, wildlife, aquatic life, critical habitat, aesthetic landscapes, and ecologic balance at significant and potentially irreparable risk. Complicating the absence of a viable Ohio River Basin Commission is an ongoing contentious public and political controversy over the benefits and risks of natural gas production. Our local business associations have become distraction by industry promises of jobs and economic recover; local legislators have been influenced by the special interests of industry lobbyists; many landowners have succumbed to the hope of financial gain; and, area protection agencies have been rendered ineffective as a result of reductions in funds and human resources. These collective circumstances have placed the burden of protection and preservation of life-sustaining water resources onto the shoulders of small community-based grassroots environmental

groups. Unfortunately, the efforts of these groups have been thwarted due to a lack of monies, intergroup coordination, communication, and collaboration.

Because we do not have a comprehensive integrative water management plan or responsible governing commission, we are being denied equal rights to the pure water and the preservation of the natural, scenic, historic and esthetic values of the environment as decreed to all state residents in the *Pennsylvania Constitution (Article 1, Section 27)*.

Based on our experiences here in southwestern Pennsylvania, we feel that the following provisions in your regulations will be critical to protection of the Delaware River Watershed:

- **Consideration of water removal for hydrofracturing a consumptive use and requiring all natural gas development projects to obtain Commission approval for water withdrawal (Page 36)**
- **Metering and reporting of all withdrawals and transfers (Pages 38- and 42)**
- **Pass-by flow requirement to maintain Q7-10 (Page 39)**

Water withdrawal has not been strictly regulated in southwestern Pennsylvania. As a result, removal during summer months has adversely affected flow and, in some cases, temporarily dewatered tributaries. PADEP is not able to monitor the potential effects of the reduced flows on aquatic biota in every sub-watershed.

- **Requirement for an invasive species control plan (Page 39)**

Golden algae, which occurs in saline waters in Texas and Oklahoma, were not present in southwestern Pennsylvania prior to Marcellus shale development. No provisions existed for out-of-watershed equipment to be disinfected prior to its use in Pennsylvania. As a result, a golden algae bloom was responsible for a MAJOR fish, mussel, and amphibian Kill in southwestern Pennsylvania.

- **Submission of a natural diversity inventory assessment (Page 42)T**

DEP monitoring is conducted on a five-year cycle. Thus, many streams in southwestern Pennsylvania had not been assessed for multiple years prior to Marcellus shale development. Without recent baseline inventories, it is impossible to determine whether or not water withdrawal or waste water discharge have adversely affected biota.

- **Incentive-Based Natural Gas Development Plan (Page 51)**

This provision exemplifies the approach that should have been taken throughout Pennsylvania to efficiently extract natural gas while maximizing protection of our natural and cultural resources.

- **Requirement for storage of all flowback and production water in tanks; no open Impoundments containing waste water (Page 64)**



It has been demonstrated in other oil and gas development areas that open water Impoundments containing waste waters are attractive nuisances to wildlife and sources of air pollutants. They should be prohibited statewide.

We are, indeed, envious of this very worthy initiative of the *Delaware River Basin Commission*, and wish you well in enacting these regulations.

A handwritten signature in black ink, reading "James D. Powell". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Powell".

James D. Powell, President  
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cc: Office of Environmental Justice Advocate  
  
Ohio River Water Valley Sanitation Commission  
  
Western Pennsylvania Conservancy  
  
Senator Robert P. Casey  
  
Senator Pat Toomey