



## **Pennsylvania Farm Bureau**

510 South 31<sup>st</sup> Street · P O Box 8736 · Camp Hill, PA 17001-8736

Phone: (717) 731-2740 FAX (717) 731-3575 [www.pfb.com](http://www.pfb.com)

April 14, 2011

Natural Gas Regulations  
Delaware River Basin Commission  
c/o Commission Secretary  
25 State Police Drive  
West Trenton, NJ 08628-0360

**Re: Proposed Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Provide for Regulation of Natural Gas Development Projects (Proposed Addition of Article 7, as Noticed in the March 5 Issue of the *Pennsylvania Bulletin* at 41 Pa.B. 1173)**

### **VIA FEDERAL EXPRESS**

Dear Sir or Madam:

Pennsylvania Farm Bureau ("Farm Bureau") offers the following comments relative to the aforementioned proposed regulations to govern natural gas development projects within the Delaware River Basin. Pennsylvania Farm Bureau is a statewide general farm organization with a membership of greater than 50,000 farm and rural families throughout the Commonwealth. Some 5,460 member families are located within Region 8 – the geographic region within Farm Bureau's organizational structure most closely related to the area of Pennsylvania to be affected by these proposed regulations. We are the Pennsylvania affiliate of the American Farm Bureau Federation, a nationwide general farm organization.

At the outset, we recognize the importance of establishing regulatory standards and oversight that provide effective protection of surface water and groundwater supplies in response to anticipated development of natural gas resources within the Basin. Farmers particularly appreciate the need for accessing and maintaining a supply of water whose quantity and quality meet the farms' need for crop and animal production and farm families' need to sustain life and well-being of family members.

However, as farmers engaged commercially in agribusiness, we also believe that regulatory measures need to strike a proper balance with economic opportunities for businesses to be sustainable. Regulations should be reasonably responsive to the risk of harm that is likely to occur if unregulated, and not unduly restrict commercial and land use activities whose harm is speculatively perceived by governmental agencies in the abstract. Regulations should also be crafted in a way that steadfastly ensures consistent understanding, decision-making and application in interpretation and enforcement. And regulations should not provide the opportunity for individual regulatory officials to apply inconsistent and arbitrary judgment through regulatory provisions that fail to give clear directives in analysis and standards to be applied in reaching that judgment.



Farm Bureau has serious concerns about the scope, breadth and effects of the proposed regulations upon the opportunity for natural gas development in the northeast region of Pennsylvania. As you may know, the nation's recent economic downturn has seriously hurt farmers over the past several years, particularly dairy farmers.<sup>1</sup> Over this period, many farm families have suffered significant loss of equity in their farms, and are now struggling in their effort to viably maintain their farm businesses. Gas development in the Marcellus region can provide to many families in the northern and northeastern regions of Pennsylvania a meaningful chance to recover from their losses and make the type of proactive capital investments needed to sustain their farms and farm businesses viable in the future. In our opinion, DRBC's regulations, as proposed, go well beyond mere water quality regulation of gas development activities, and will comprehensively stifle prospects for gas development in northeast region.

If there were no existing standards for water quality regulation, we would better understand the aggressive action that DRBC has taken in its proposed regulation. But, Pennsylvania already has developed thorough regulatory standards to protect water supplies from adverse impacts from gas development and effective enforcement procedures to ensure gas developers strictly adhere to these standards. We see DRBC's proposed efforts to impose a new layer of bureaucracy and establish regulatory standards in conflict with Pennsylvania's existing regulatory standards and enforcement measures as seriously counterproductive to the needs of agriculture.

We have particular concerns with the powers to be given under the proposed regulations to the Executive Director. Our reading of the proposed regulations would give the Executive Director extensive regulatory powers in prohibiting and limiting development projects without prescribing meaningful limitations or requirements for analysis and justification to the exercise of that broad authority. Without such express direction in the regulations, there is a reasonable likelihood this authority will be exercised in an arbitrary, inconsistent and unreasonable manner.

We also seriously question the reasonableness and justification for the proposed regulations' extreme minimum setback and buffer distances that gas wells to be developed in northeast Pennsylvania would be required to be located from areas considered DRBC to be "waterways" and from other structures and improved landmarks. The practical effect of these standards is to eliminate gas development over a widespread area of the northeast region. While Farm Bureau policy does recommend the establishment of standards for minimum distances of wells from property lines and established water bodies, we believe the proposed distance setbacks are excessive.

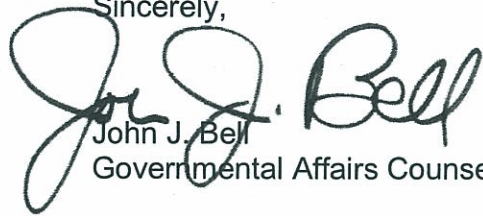
In sum, we would strongly encourage DRBC to more closely work with Pennsylvania's Department of Environmental Protection to revise its proposed regulations for gas development activities for greater consistency and coordination with the Commonwealth's existing regulatory standards and enforcement measures to protect water supplies.

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<sup>1</sup> In 2009, dairy production accounted for nearly 30 percent of Pennsylvania's total value of agricultural production.

We appreciate the opportunity to provide commentary on these proposed regulations, and would be willing to respond and provide additional information on any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Bell". The signature is fluid and cursive, with the first name "John" and last name "Bell" clearly distinguishable. It is positioned above the printed name and title.

John J. Bell  
Governmental Affairs Counsel

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