

DELAWARE RIVER BASIN COMMISSION
SPECIAL PROTECTION WATERS

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IN RE: XTO ENERGY, SURFACE WATER WITHDRAWAL FOR
NATURAL GAS EXPLORATION AND DEVELOPMENT PROJECTS,
OQUAGA CREEK WITHDRAWAL SITE, TOWN OF SANFORD,
BROOME COUNTY, NEW YORK
Docket No. D-2010-022-1

BEFORE: PETER A. DELUCA, Chair
Pamela M. Bush, Secy/Asst. General Counsel
Kenneth Warren, General Counsel
Carol R. Collier, Executive Director
William Muszynski, Special Project
Coordinator
Kathleen Stiller, Member, Delaware
John Plonski, Member, New Jersey
Kelly Heffner, Member, Pennsylvania
Angus Eaton, Member, New York

HEARING: Wednesday, May 11, 2011

LOCATION: West Trenton Volunteer Fire Company
40 West Upper Ferry Road
West Trenton, NJ 08628-2714

Reporter: Nicole Montagano

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CHAIR:

So we're resuming our public hearing. We are reconvened, and now if you'll just give me your attention, the specifics of the XTO Energy Docket as it exists today. Again, the Commissioners have agreed by consensus that we would not vote to take action on this today, but we did want to hear and make the opportunity available for public comments on this record in our hearing. Since we only have the room until 6:00 p.m., please, three minutes or less. And if someone has already made your point, allow us to move on.

MS. NOBLE:

Point of order, will you be leaving this hearing record open after this session?

CHAIR:

I think we'll decide that as part of the discussion today, Mary Ellen, so that's a very interesting observation. Thanks.

MR. MUSZYNSKI:

Okay. I'll run through the draft docket quickly just to give everybody an understanding of the docket. The XTO Energy location of the withdrawals in

1 the Town of Sanford, Broome County, is part of our
2 special protection waters and it is a request of a
3 surface water withdrawal for up to 250,000 gallons per
4 day or 7.5 million gallons per month. It will be
5 withdrawn at a location on the Oquaga Creek, and the
6 docket is ready to conclude the HCFS test conditions
7 which means the no taking of water can reduce
8 qualitative reduction in the stream. Below that they
9 can't withdraw at all.

10 Docket contains a provision that the
11 withdrawals can only be used at approved natural gas
12 well and gas sites located in Broome/Delaware County
13 within the Delaware River Basin at the company's
14 facilities, and those sites need to be approved by the
15 state and by the Commission and, of course, the
16 Commission regulations relative to approve the gas
17 well is still, --- the comment period is still being
18 reviewed at this time.

19 This is a rough location on a USGS site
20 mapping of where it is, the bird's eye view of what
21 the creek looks like. As I mentioned before, it
22 allows the water to be used at the XTO well pads and
23 leaseholds within those two counties in New York and
24 within the Delaware River Basin. Nothing outside of
25 the basin or outside of New York at this time.

1 And we're making the point that no water
2 can be withdrawn until well pads to which the water
3 would go are approved by the Commission. And the site
4 facilities include a second current floating water
5 intake, 500-gallon pump discharged to tankers with
6 metering facilities restricted as access signage and
7 withdrawal site supervisors who are required to ensure
8 that no water is taken beyond what is allowable and
9 the pipes secured and locked.

10 The majority of the water will be used
11 for the hydraulic fracturing well stimulation. Again,
12 this could be restricted to .25 MGD, and we define the
13 day in the docket as midnight to midnight. The
14 withdrawal cannot produce the flow by in the creek of
15 more than eight CFS. And if that passby limit is
16 reached, you cannot resume withdrawing from the creek
17 until the creek gets to at least 8.4 CFS. So we're
18 not going to let it go down, something up and down,
19 we're at least here.

20 The USGS has a deposit that is the ---
21 what I call the confirmatory gauge that we're using
22 here, and they are required to establish a gauge at
23 the withdrawal point. And if there was a gauge in
24 this area that was run by the USGS, and regardless of
25 that, they would be happy to reengage a gauge at a

1 location near here. And since they have the equipment
2 from the one they pulled out, we can get a discount
3 borrowing rate on a new gauge. That is something we
4 need to discuss with the docket as to who designs that
5 gauge.

6 Let say what the docket approves or
7 doesn't approve. It does approve a water withdrawal,
8 but it doesn't approve any active gas well development
9 activities. And it doesn't approve --- all such
10 activities require separate application and Commission
11 approval, as well as state approval. Okay.

12 The withdrawal docket considers where the
13 wastewater will be treated and disposed of. Going
14 down through, these are some of the comments that we
15 have received to date. People say that the wastewater
16 disposal site's not included in the water withdrawal
17 document. And in general, we've not put it in this
18 particular docket and the Stone Energy docket. We do
19 have the wastewater withdrawal sites submitted to u or
20 the disposal sites submitted to us by a company, but
21 if we keep putting them in the docket and they change,
22 then we have to go back through a document, and we
23 chose not to do that. But they cannot begin fracking.
24 You know, they can't begin basically without doing any
25 activities until they actually have a disposal site at

1 the time they're ready to start hydrofracking. And
2 that would be a condition. All the wastewater
3 requirement conditions that would be included in a
4 well pad docket not in the withdrawal. All of our
5 water withdrawals we look at to see where, in essence,
6 the wastewater's going. Is there a capacity, a
7 treatment capacity there? So while we looked at it
8 here, conditions will be placed in the well pad
9 docket.

10 As far as an operation plan, and so
11 nothing can be done until they submit an operation
12 plan in accordance with the conditions. And the
13 operation plan clearly puts the details in as to how
14 the daily allocation would be complied with, how to
15 pacify flow-monitoring requirements, the metering
16 locations, et cetera, and how they actually report,
17 and metered trucks that are being used.

18 A requirement for non-point source
19 control plan and no construction can begin until there
20 is an approved non-point source control plan that is
21 to be submitted to the executive director and the
22 Commission for approval. There are drought conditions
23 that are placed in there, and the drought conditions
24 are subject to those imposed by the State of New York
25 as well as by the Commission if the Commission does

1 vote to put in specific drought restrictions. It does
2 require them to get all the other necessary approvals
3 and the state --- and it certainly doesn't exempt them
4 from getting individual state and federal or local
5 government approvals. Construction plans and
6 specifications need to be approved by the executive
7 director before there's any site clearing or
8 preparation of reductions, or any water withdrawal.
9 And there's a requirement that the program monitor and
10 control leakage in the water supply system be
11 installed.

12 Interference, what we're looking for is
13 to make sure that, you know, while our District ---
14 obviously if you take out interferences from this type
15 of referral, we do have a standard condition that if
16 any is reported or suspected, it must be reported
17 immediately to the executive director. And the
18 executive director may nullify or suspend the docket
19 condition based upon whatever the results of that
20 investigation is.

21 I mentioned the drought plans and
22 emergency requirements and the reports. Review the
23 reports of subject, any of the reports that come after
24 the dockets are subject to review by the Commission.
25 As I said, we received about 7,100 or thereabouts

1 e-mails as of when we left the office this morning, as
2 well as 100, I guess, hard-copy types of comments on
3 the docket asking for your postponement of the
4 decision, relocation of the hearing to the vicinity of
5 the discharge, and some of the substantive comments
6 that we have sort of addressing it in terms and
7 conditions of the dockets.

8 ATTORNEY BUSH:

9 I have a long list of commentators. Should
10 I begin calling them?

11 MS. COLLIER:

12 Yes.

13 ATTORNEY BUSH:

14 Okay. I'm going to call three or four
15 names so that folks can be on deck and we don't waste
16 too much time between speakers. So the first speakers
17 are Tracy Carluccio, Karina Wilkinson, Betty Tatham,
18 and Katy Dunlap, Esquire.

19 MS. CARLUCCIO:

20 Thank you for the opportunity to comment.
21 Delaware Riverkeeper Network has submitted extensive
22 comment. We mailed in and handed in today. And we
23 are asking that you deny this permit based on the fact
24 that it does not comply with the Commission's
25 regulations and procedures, and we have extensive

1 comment that explains that. But I'd like quickly to
2 add verbally that this is sort of what we would call a
3 lose-lose project as opposed to a win-win project.
4 And I'll explain what I mean. It's a loss for the
5 Oquaga Creek, and that's because it's going to lose
6 its natural flow machine. It will be flattened. It
7 will lose habitat, and that impacts on the fish and
8 the aquatic life that depend on those habitats. And
9 it will also impact water quality if they will lose
10 water quality.

11 Also, it will be a loss for the West
12 Branch of the Delaware River. The cold water that
13 flows from this creek help to offset the flows from
14 the Mechanicsville Dam across the river. And for at
15 least ten miles of the West Branch, those free flowing
16 waters help to support the habitat. It supports
17 temperatures, sensitive species and other aquatic life
18 that are sensitive to needing free flows.

19 It's also a loss for the Delaware River,
20 and the reason for that is because of the designation
21 of the water resources of the basin that will result.
22 There is absolutely inadequate analysis of the impacts
23 on the Delaware River for all of us downstream, 50
24 million who drink the water. But also for the
25 ecological resources and the river itself. The use of

1 the water withdrawn and the impacts of the disposal
2 and use of the wastewater that will be generated by
3 the natural gas waste that XTO plans to drill with
4 this water must be addressed by the Commission
5 according to your regulations.

6 The Commission does not even consider how
7 that water will be used to hydraulically fracture the
8 wells, 99 percent of it would be, and how that will
9 impact the watershed. And you must do this, according
10 to your own regulations.

11 It's also a loss for New York, the whole
12 community up there. Sanford, the region of Broome and
13 Delaware Counties, others will speak about that, but
14 it's a very popular fishing creek. It's a critical
15 groundwater watershed for people who live there and
16 visit there and for the people who rely on that creek.
17 It's also absolutely an insult in the middle of April
18 and May to have this notice and this public hearing
19 four hours away from a community that is out on the
20 creek enjoying the very resources that this project
21 threatens. There needs to be a local hearing and an
22 extensive public comment period of time in order for
23 people to weigh in.

24 Who does win? The only entity that wins
25 is XTO, Exxon Mobile. Do they really need us to be

1 doing them favors? I don't think so. They don't even
2 have a gas well application submitted to use this
3 water with New York State or the DRBC.

4 ATTORNEY BUSH:

5 It's time, ma'am. Thanks.

6 MS. CARLUCCIO:

7 Thank you.

8 ATTORNEY BUSH:

9 Betty Tatham?

10 MS. TATHAM:

11 It was extremely disappointing to learn
12 just a week ago that our Delaware River Basin
13 Commission has placed XTO request to withdraw 250,000
14 gallons or 90 million gallons per year from the
15 special protection waters of the Oquaga Creek for
16 hydrofracking purposes on the docket here today for
17 meeting. This action without adequate notice to the
18 people who live in the basin suggests a disregard for
19 the public input process for which our DRBC
20 Commissions have been highly respected in the past.
21 It also makes one wonder if about 45,000 people in our
22 four states who sent letters commenting on the draft
23 regulations that were hand delivered by environmental
24 groups on April 14th and 15th simply wasted their
25 time.

1 I strongly urge you to deny XTO's request
2 and refrain from hearing other drilling related
3 request until the public comments on the regulations
4 have been carefully considered. To rush the
5 permitting process for water withdrawal while both New
6 York State and the DRBC itself have a moratorium in
7 place is wrong and an unfortunate departure from 50
8 years of stewardship by the DRBC for which we have
9 been grateful.

10 I appreciate your postponing the decision
11 on the XTO water withdrawal request and action on the
12 DRBC budget. President Obama has just announced a
13 90-day study that will lead to new or revised federal
14 regulations that will make hydrofracking for gas
15 safer. I therefore strongly urge the five
16 Commissioners to postpone action on the draft
17 regulations at least until those new federal
18 regulations are finalized.

19 However, it would be far better to wait
20 until the EPA study can inform those regulations.
21 More than 50,000 people who get their water from the
22 Delaware River Basin have asked the DRBC now and
23 before September to postpone action on regulations
24 until science from the cumulative impact study for our
25 basin or the current EPA study can weigh in. In view

1 of new studies and serious incidents, like the Tamaqua
2 blowout, house explosions in Bradford County, and
3 other developments, please reconsider those requests
4 and wait for an EPA study. Thank you.

5 ATTORNEY BUSH:

6 Karina Wilkinson?

7 MS. WILKINSON:

8 Yes, my name's Karina Wilkinson. I'm
9 from Food & Water Watch. We're a national consumer
10 advocacy group, and we're asking you to vote no with
11 the proposed water withdrawal application submitted by
12 XTO Energy.

13 I have a letter here with our official
14 comments, one for each of you. And additionally, we
15 submitted --- our supporters have submitted 3,000
16 e-mail comments objecting to the proposal. And I have
17 another additional 25 letters here from supporters
18 asking you to vote no on this proposal. I appreciate
19 that you decided to postpone the vote, and I would ask
20 that you do keep the comment period open subsequent to
21 this meeting.

22 The Oquaga Creek is a protected trout
23 stream with this special protected waters of the
24 basin. And the cold water flows from the creek are
25 essential to the health of the Delaware River. It

1 should not be used for dangerous industrial activity
2 that could pose a risk to human health and the
3 environment.

4 We understand New York currently has a
5 moratorium in place that means no gas drilling.
6 Approving this permits seems at best premature or
7 shortsighted. At the regional hearings in Delaware
8 and Broome County, New York were closest to the ---
9 you know, where the creek is and where the people will
10 be most likely affected by it. The need to protect
11 this watershed --- but the fact that the water
12 withdrawal would be made specifically for the purpose
13 of extracting gas from the Marcellus shale is a
14 compelling reason not to issue the permit.

15 We know fracturing can deplete and
16 contaminate water, as was just mentioned that
17 thousands of gallons of water mixed with unknown toxic
18 chemicals to surface water, threatening public health.

19 But even after that catastrophe, fracking
20 releases gas that contaminate household wells.
21 Wastewater produces unique biochemicals as well as
22 naturally occurring radioactive elements released by
23 the fracturing shale and it's difficult and costly to
24 treat, putting a further burden on all the
25 over-stretched municipal budgets.

1 The hydraulic fracturing of the Delaware
2 River Basin and the Marcellus Shale region is a
3 disaster for public health and the environment.
4 That's why Food & Water Watch has called for a
5 national ban on hydraulic fracturing and we are asking
6 the Commission to fulfill its duty to protect the
7 water in the Delaware River Basin and reject the
8 withdrawal request by XTO Energy. Thank you.

9 ATTORNEY BUSH:

10 Thank you. Katy Dunlap and then James
11 Barth and Julie Edgar and Amy Hansen.

12 ATTORNEY DUNLAP:

13 Thank you. I'll keep my comments short.
14 My name is Katy Dunlap. I'm the Eastern Water Project
15 Director for Trout Unlimited, and I'd like to submit
16 written comments today on the XTO application. I
17 won't repeat everything that Tracy said, but I will
18 second the fact that many of the people who use this
19 basin are unavailable or unavailable on this ten-day
20 notice --- ten-day notice. And hearings should be
21 held further into the watershed.

22 I do want to thank you for delaying
23 consideration of this docket and recognizing that the
24 public has concerns about this proposed water
25 withdrawal as was mentioned earlier. The Oquaga Creek

1 provides important resources to the west branch, to
2 the main stem, but also for the trout fishery areas as
3 well as for recreational opportunities. In turn, the
4 trout fisheries supports the local recreation and
5 tourism in this county, ranking third among industries
6 generating jobs in the local area. While this creek
7 is not classified by New York as a trout-spawning
8 stream, we know from anecdotal evidence that it is a
9 very productive brown trout and brook trout spawning
10 tributary. The numbers of one and two year brown
11 trout are staggering in the headwaters in particular,
12 due to the abundance of cold water. Impacts of the
13 proposed withdrawal on the cold water bugs, aquatic
14 organisms and ultimately the trout and other species
15 that rely upon this attributes must be assessed before
16 consideration of this docket moves forward. Currently
17 docket lacks discussions about any of these aspects.

18 According to the docket, many of the key
19 water pollution withdrawal analyses will be determined
20 at a later time. Effectively this wait and see
21 approach precludes the public input on how to best
22 ensure that water resources, fish, and wildlife and
23 the impacted communities are affected. Trout
24 Unlimited has 22,000 numbers in New York, New Jersey,
25 and Pennsylvania, thousands of whom regularly fish

1 Oquaga Creek and its surrounding tributaries. Our
2 members have been deprived of an opportunity to
3 provide input on this application again, --- the
4 limited ten-day notice and the single hearing that is
5 being held today. In fact, I rode more than four
6 hours to be here today from Broome County, and I know
7 that many of our members up there were unable to take
8 off a day of work on that limited ten-day notice.

9 We request that the before the Commission
10 considers this docket, that a full assessment of this
11 withdrawal un Oquaga Creek, on its watershed, on the
12 cold waters, and the trout fisheries be conducted. We
13 also respectfully request a 90-day comment period be
14 allowed and that this public hearing period remain
15 open, and that you will hold hearings in the affected
16 communities in Broome and Delaware Counties. Thank
17 you.

18 ATTORNEY BUSH:

19 James Barth?

20 MR. BARTH:

21 Damascus Citizens for Sustainability. I
22 too am delivering 182 of these letters that request a
23 hearing up in the area and that oppose the approval of
24 the docket. And I've given them to Paula. I won't
25 repeat anything you've already heard.

1 Personally, I think one thing that jumped
2 out at me is what is 250,000 gallons of water per day?
3 What's the purpose of that? It's not that how could
4 it be for hydraulic fracturing shale? When you take
5 20 days at that rate to withdraw five million gallons
6 to --- frack a 5,000 foot ladder, it would take a
7 month to withdraw 7.5 million gallons which would
8 service a 7,005 foot ladder. So I really wonder what
9 is that about because I don't see the purpose being to
10 hydraulically fracture shale. I mean, that's not
11 normal. It's about the biggest organization in the
12 world and one of the most profitable. And this just
13 seems exceptionally odd and I would hope that you
14 would look carefully into that.

15 I also find that Exxon Mobile --- of
16 course, I am very, perhaps, prejudiced against it. I
17 think it has one of the worst environmental records in
18 the history of the world prior to perhaps BP's gulf
19 explosion. And before allowing them into the basin, I
20 think a company that enjoys profit margin of about \$4
21 billion per year might --- it would be nice if you
22 consider how --- what it's hiding. And you know,
23 after the Exxon Valdez spill accident, they went
24 through Court, the Court system for 20 years. And
25 what was initially I think a \$5 billion fine, after 20

1 years, was reduced to \$500 million. There was
2 mediation of the area alone is estimated in the '90s,
3 I think, at \$2.5 billion. So this is a company that
4 frankly, you don't mess with.

5 And I would suggest that we be very
6 careful of how we let it potentially mess with us.
7 Thanks very much.

8 ATTORNEY BUSH:

9 Julie Edgar?

10 MS. EDGAR:

11 Good afternoon. I'm a concerned citizen
12 of Lehigh Valley of Pennsylvania. This is not my
13 backyard, but I consider it a big enough deal to come
14 here today and address you. We're here today because
15 the DRBC provides the only review of this water
16 withdrawal. The public must be included in this
17 process. It's already been pointed out the double
18 moratorium of the Delaware River Basin and
19 hydrofracking in New York. We ask, of course, again,
20 that a hearing should be held in the local Broome
21 County area and the public comment period should be
22 extended a minimum of 60 days.

23 By applying for this permit, under these
24 current conditions, Exxon Mobile, XTO Energy, is
25 attempting to undermine the rule of order against the

1 interests of the public good. Draft gas rules are
2 pending and New York is still completing environmental
3 rule. But in typical corporate fashion, it is
4 premature and presumptuous for them to apply to take a
5 quarter million gallons a day from fresh coldwater
6 trout stream, Oquaga Creek, with no drilling permit
7 with the pending rules that could easily change how
8 this permit could be viewed in the future. And Exxon
9 does not justify any need for this public water. Its
10 preemptive strike is inappropriate and it should be
11 duly dismissed until conditions render more rapidly.

12 Please, what is the hurry? The community
13 most affected by this withdrawal, as pointed out,
14 deserve a local hearing. It was very hard for
15 everyone to attend on ten business days notice, and
16 drive four hours. The trout fishermen are busy
17 fishing right now. They're clueless about this. Only
18 one-daytime hearing here in West Trenton is really not
19 fair. So we ask for another hearing and an extended
20 comment period.

21 There are many questions to answer about
22 how this withdrawal will affect valuable and sensitive
23 fisheries and water areas. New York and DRBC need to
24 carefully consider all of these issues before even
25 considering this permit. Three main considerations

1 are no water withdrawal, a fair hearing process, and
2 protection for this creek specifically.

3 And in general, I wish to address the
4 travesty of giving public water away for free for the
5 purposes of privatized corporate profits. Water is
6 headed the way of oil and gold. It's going nowhere
7 but becoming more scarce, more expensive, and it's
8 threatened in general by privatization, state,
9 nationally, and globally. Natural gas is only a
10 resource, but water is life itself. It's absolutely
11 priceless. And this, the largest of the least spoiled
12 and unpolluted watershed left, we need to realize the
13 treasure we have and protect it accordingly. This is
14 supreme irony that we would give public water for free
15 to an industry which in particular threatens the very
16 integrity of the most national water infrastructure
17 which sustains the life of all of us. Slick water,
18 high volume, hydraulic horizontal, deep shale
19 hydrofracturing is the first industry which proposes
20 to on large scale not only ---.

21 ATTORNEY BUSH:

22 It's time.

23 MS. EDGAR:

24 --- not only take water ---. Is it my
25 time?

1 ATTORNEY BUSH:

2 Yeah. Thank you very much. You don't
3 look like Amy Hansen, so you'll have to tell us who
4 you are.

5 MR. DECKER:

6 My name is Dewey Decker. And I'm
7 supervisor of the Town of Sanford. I'd like to thank
8 the Commission for the opportunity to speak today.

9 OFF RECORD DISCUSSION

10 MR. DECKER:

11 The economy of the Town of Sanford in New
12 York State is very depressed. The 2010 census reports
13 that the Town of Sanford lost three percent of its
14 population. New York State lost two electoral votes
15 due to business moving out of the state, and our young
16 people moving elsewhere for jobs. This would cause
17 less revenue from the federal government.

18 Ninety-five (95) percent of all the gas
19 used in New York State is imported from Canada or
20 other states. I also understand that the water system
21 that provides water to New York City is leaking more
22 water than would be consumed by the gas industry. By
23 putting pressure on the government for safe drilling,
24 there have been several improvements. For example,
25 the cold water system. The cold water system not only

1 contains the water, but reduces the use of the water.

2 I do not look at this as a conflict
3 between two groups, those for and those against. But
4 two groups working towards the same goal for to
5 improve our economy with safe drilling. I believe
6 this would benefit the Town of Sanford, New York
7 State, New York City, and the DRBC because of new
8 revenues, income, for New York City to fix their water
9 leaks to stop the wasted water. New York City economy
10 would improve with more jobs and business. DRBC would
11 have revenues for programs that would identify other
12 problems that need improving within the water basin.

13 Our hope today after three years of study
14 and extensive research is that DRBC is not swayed by
15 the exaggerated claims and influences to the negative,
16 but would truly see the need to move forward in a
17 positive way to promote gas drilling and water use for
18 the economic stability of us all. And I would like to
19 stress that I would be very much in favor of having a
20 public hearing in the Town of Stanford. Thank you.

21 ATTORNEY BUSH:

22 Thank you. Amy Hansen?

23 MS. HANSEN:

24 Good afternoon, Commission. Thank you
25 for the opportunity to speak today. I'm with New

1 Jersey Conservation Foundation. New Jersey
2 Conservation Foundation, we have a 50-year history of
3 protecting lands that drain into the Delaware River,
4 and we oppose the application put forth by Exxon
5 Mobile. The company's request for permission to
6 withdraw up to 250,000 gallons of water every day
7 from the Oquaga Creek, a native trout stream, should
8 be denied.

9 NJCF, New Jersey Conservation Foundation,
10 has made a large investment in the river throughout
11 our history working in the Delaware Bay Watershed and
12 northern and central New Jersey. We worked to
13 establish and implement milestone water protections in
14 the Delaware River Basin, including the Highlands
15 Water Protection and Planning Act and the Delaware and
16 Raritan Canal Commission. We appreciate the efforts
17 the DRBC has made over the years to maintain and
18 improve the exceptional water quality in the river,
19 and we are pleased that the vote has been held on this
20 application.

21 We were surprised that the DRBC scheduled
22 to vote on this application at this time when there is
23 a moratorium drilling in the Delaware River Watershed
24 and also on hydrofracking in New York State. Because
25 of grave concerns we have about the already observed

1 negative impacts from hydrofracking for natural gas on
2 our water supply and other natural resources, as well
3 as the premature quality of this application, NJCF
4 urges the Commission to vote against the approval of
5 this application. If such a denial is not given, a
6 future public hearing should be held within a 60-day
7 minimum comment period near the Oquaga Creek to allow
8 affected citizens to participate in the process.

9 We urge you not to fast track any permits
10 regarding natural gas drilling. As you all know, New
11 York State is presently drafting regs regarding gas
12 drilling, and that process must be given sufficient
13 time for its completion before any water withdrawal
14 permits are even considered. The current application
15 for such a large water withdrawal necessitates a
16 thorough analysis of the effects of such a water
17 withdrawal on the environment, wildlife, local
18 agriculture and industry, as well as local
19 communities. We're extremely concerned by the rush to
20 even consider applications such as this and the lack
21 of caution that's portrayed with respect to our
22 critical drinking water supply.

23 As we learn more about the practice of
24 fracking, it seems clear that we as a society are
25 engaging in a dangerous resource extraction process

1 that might have been expected in an earlier time when
2 we had less understanding of the importance of natural
3 resources to public health and when our scientific
4 knowledge in general was not as sophisticated. To
5 allow this kind of ---.

6 ATTORNEY BUSH:

7 Thank you. Your time is up. Thank you.

8 MS. HANSEN:

9 Thank you.

10 CHAIR:

11 Thank you very much.

12 ATTORNEY BUSH:

13 Cathy Frankenberg, Jeff Tittel, and
14 Arnold Frogel.

15 MS. FRANKENBURG:

16 Hi. My name's Cathy Frankenberg. I'm a
17 program organizer with Clean Water Action, the largest
18 environmental group in Pennsylvania. And I'm asking
19 you to say no to Exxon's subsidiary, XTO, permit to
20 remove more than 250,000 gallons of water daily from
21 the Oquaga Creek in Broome County, New York, which has
22 already been approved by Town of Sanford. This water
23 would never be used to be mixed with toxic chemicals
24 and forced deep into the earth through the process
25 known as fracking. The application is being

1 considered despite the Delaware River Basin being
2 under a moratorium as well as the New York State
3 having one for hydraulically fractured gas.

4 It doesn't make any sense to issue a
5 permit under a double moratorium. Add to the
6 absurdity the fact that the public was given only ten
7 business days to submit comment as well as the hearing
8 being held a full four-hours drive from the proposed
9 site. And I couldn't really decide if this would make
10 a better plot for a novel by Kafka or Orwell. There
11 are things that we don't know, sure.

12 But there are things that we do know. We
13 do know that this practice has hurt people in
14 Pennsylvania, and we do know that this is a
15 consumptive use of H2O which returns 20 to 30 percent
16 of this dangerously contaminated frack water back to
17 the surface where there is yet no sustained technology
18 to sufficiently restore it to safe drinking water
19 quality. And there's new evidence that has surfaced
20 from Duke University showing the fact that it is
21 fundamentally unsafe. The seriousness of this
22 discussion cannot be overemphasized.

23 I commend you for postponing voting on
24 this hearing, but I urge you to extend the comment
25 period to a full 60 days like you did with the Stone

1 Energy permit. Also, please provide additional
2 opportunities for public input, especially in the area
3 of Broome County. Fifteen (15) million depend on your
4 decision. Our water and our health depend on your
5 decision. Please make it wisely. Thank you.

6 ATTORNEY BUSH:

7 Jeff Tittel.

8 MR. TITTEL:

9 Jeff Tittel, director of New Jersey
10 Sierra Club, and I'm here representing not only the
11 20,000-plus New Jersey members but the 1.2 million
12 Sierra Club members across the country because what's
13 happening in this basin is something that affects
14 everyone, and really the future of not only water in
15 New Jersey but throughout the country because we're
16 dealing with these issues in over a dozen states right
17 now.

18 And what you do here really sets the
19 precedent for things that happen in other places. You
20 have more tools at your disposal than they have in the
21 Susquehanna or in West Virginia or other places. So
22 here's a place where you can do things right. And
23 unfortunately, when I look at this proposal, it's
24 almost like Alice in Wonderland because it's kind of
25 like we're going through a looking glass. We're going

1 to withdraw first, permit later, do studies after
2 that, look at the science, figure out regulations, and
3 do the planning. You got it backwards. You've
4 actually got to do the science first and the studies,
5 then plan for it, and figure out your regulations, and
6 then we'll go forward with permitting. And that's the
7 problem here, that this should be either withdrawn or
8 denied.

9 When you're talking about critical
10 headwater areas, you know, 25 --- you know, 250,000
11 gallons, well, that's not a lot when you think of the
12 whole watershed. But it's actually the amount of
13 water that the Town of Frenchtown uses every day. But
14 when you're dealing with headwater areas and when you
15 have depleted use of your headwater and you take cold-
16 water fisheries and the only really pristine water in
17 the upper part of the basin and destroy it, it has a
18 chilling effect, or actually a warming effect all the
19 way down in the basin. It means that you lose
20 dilution, you lose cold water. You lose those things
21 that you need, especially in summertime, to keep this
22 river healthy. And when you destroy the headwaters,
23 you destroy the whole river. And that's why this is
24 so critical and why this proposal needs to be killed.

25 More importantly, I think for the basin,

1 these withdrawals are going to be like potato chips.
2 They're not going to be able to get away with just
3 one. They're going to be coming back time and time
4 again because of the amount of water that they're
5 going to need. You're going to have hundreds if not
6 thousands of these kinds of withdrawal applications
7 coming forward. So how you handle the first one is
8 the most critical because Exxon can't frack with this
9 small amount of water for what they need for just one
10 well. They're going to need to come back time and
11 time again with hundreds of these permit applications,
12 as will the other companies that are up there. And so
13 what happens now is the more important.

14 And this violates the whole concept of
15 comprehensive planning and why the DRBC was set up in
16 the first place. And I think that based on your
17 record, your history and the rules that you have, this
18 has to go. This has to be denied. And quite frankly,
19 when I heard the gentleman talk about economy, without
20 water there is no economy. And if you destroy the
21 headwaters of this river, you destroy the river and
22 all the towns and all the people that are depending on
23 this river, not only the 15 million people who get
24 drinking water out of it, but also all the little
25 businesses that sell anything from bait to rentals to

1 antiques.

2 ATTORNEY BUSH:

3 Thank you.

4 MR. TITTEL:

5 That's why this is so important. This is
6 our lifeblood. Thank you.

7 ATTORNEY BUSH:

8 Arnold Frogel and then Bernard Handler
9 and Ariana Shapiro.

10 MR. FROGEL:

11 Hello. My name's Arnold Frogel. I heard
12 most of the points that I was going to make already
13 mentioned by the previous speakers for denial of this
14 application for withdrawal. I can see that as the
15 last speaker pointed out there seems to be a process
16 of sedimentations of the whole question of the
17 hydrofracking, and that's a very important reason for
18 rejecting this application.

19 The process is going on with the
20 regulations being formed by the DRBC. There's a
21 process going on in Albany with the supplemental
22 environmental impact statement. And those processes
23 have to be completed comprehensively. They have to
24 oppose the whole hydrofracking question in a
25 comprehensive way. And that's why this should not be

1 allowed now, this permitting. Thank you.

2 CHAIR:

3 Thank you.

4 ATTORNEY BUSH:

5 Bernard Handler?

6 MR. HANDLER:

7 My name's Bernard Handler. Okay. The
8 first thing that really stood out to me with this
9 application or docket was the time frame. And thank
10 you for putting off your vote on it right now. I
11 think this is something you need to consider for all
12 dockets coming down the lane because there are groups
13 that cannot respond in ten days.

14 The other day I was at the Upper Delaware
15 Council, and a group that you're really familiar with,
16 and a lot of the representatives there didn't really
17 know, they didn't have time to circulate this among
18 their group. They're very concerned about the
19 flexible flow management as you're aware of. And for
20 them to function, they first need to have a work
21 meeting. And then they have to send it back to their
22 group. Then they have to, you know, talk about that,
23 possibly they'll need to send it back again. To do
24 something of this nature, obviously, is a political
25 outcry right away when you're dealing with this. They

1 need 60 days, 45, 60 days to basically go through
2 their process.

3 Three of the township supervisors that
4 were representatives of the township that were there
5 also would like to respond to this, but they didn't
6 have a supervisor's meeting yet so one was on Monday,
7 one was on Tuesday. They can't just come up like this
8 and write a letter on their own. They represent. And
9 it's very important that they have more time to
10 respond on these issues, their concerns.

11 Any water taken out of the headwaters
12 concerns everybody downstream. This creek --- I mean,
13 Exxon Mobile, as we said. It's only the one well per
14 month that can be done with this. They're going to be
15 coming back for more and more and more. And this is
16 something that has to be addressed before they can
17 advance. Thank you.

18 CHAIR:

19 Thank you.

20 ATTORNEY BUSH:

21 We have Ariana Shapiro, Sandra Kissam,
22 Jeff Zimmerman, Margery Schab. Is Ariana Shapiro
23 here? No. Okay. Let's go onto Sandra Kissam. Not
24 here? Jeff Zimmerman. I know you're here.

25 MR. ZIMMERMAN:

1 I would like to make just a couple of
2 points today about this docket. The most important of
3 which is that the present docket does not consider in
4 any way that Oquaga Creek is a trout spawning stream.
5 The spawning seasons generally starts in October and
6 continues through the following April. It is critical
7 that once the spawning season starts that the water
8 levels do not go down. Once the eggs are covered with
9 water when they're laid, they must stay covered in
10 water. If they're ever exposed to the air, they will
11 die. Consequently, there needs to be some constraint
12 on the ability to --- on the right to withdraw any
13 water to take into account the spawning season.
14 There's nothing in this document that indicates any
15 discussion about that issue.

16 The last point on that is the passby flow
17 of HCFS while it's substantially more than seven feet,
18 ten inches, as reported in the docket is still not
19 sufficient. I will refer to the covenants of the
20 Pennsylvania Fish and Boat Commission that was
21 provided to the Commission on this particular docket,
22 that they suggest a minimum passby flow should only be
23 at least 25 percent of the average stream flow. The
24 HCFS figure is not sufficient. It should be something
25 a lot closer to 25 CFS. That's all I have. Thank

1 you.

2 CHAIR:

3 Thank you.

4 ATTORNEY BUSH:

5 Margery Schab?

6 MS. SCHAB:

7 Hello. I'm from Remsenberg, New York,
8 which is in Long Island, but this is a big issue. And
9 I ask you to reject the application by XTO which is
10 owned by Exxon Mobile. The reason my 86-year-old
11 husband I came here is we have good friends who live
12 in Deposit, so I want to tell you a little bit about
13 the people that I have met there.

14 First of all, our brothers and sisters
15 have retired. One is disabled. They pool their
16 resources to help each other out and to live in their
17 retirement years in Deposit. They take us down to
18 Karen to Kate's Café, and we have a great breakfast
19 there. Have you ever tasted her muffins, and have you
20 ever bought her father's honey, which is the best
21 honey I ever had in my life? Well, that's what you
22 do. She also sells handmade racks and quilts and
23 aprons. I bought one for my new grandniece, a little
24 doll where little baby's fingers can go in, which was
25 made by somebody in Deposit.

1 There is Frog Pond Farm, which is an
2 incredible vegetable stand. And the owner is like an
3 auctioneer. You bring your produce. There is no ---
4 he has an old-fashioned scale, and he adds everything
5 up like an auctioneer. And then an old fashioned cash
6 register. And then you go out and you see the goats
7 and you see the chickens. This is all in the area of
8 Deposit.

9 Then there's Helen. Helen travels on a
10 school bus every day with disabled children so she can
11 take care of them, make sure nothing happens to them.
12 She has lived in Deposit her whole life, and so do her
13 children, which she has numerous, and even more
14 grandchildren. And her husband loves to hunt so much
15 that when his grandson was born, he bought him a
16 lifelong membership in the NRA. The child's now one
17 year old. Now, by the way, on Sunday, did you know
18 that the whole community gets together and they change
19 charities and they all come up for a wonderful
20 breakfast which is served by the charity that had post
21 for that particular Sunday. And you get eggs and
22 toast and bacon and they come around with coffee. And
23 it can be the Boy Scouts, the Rotary, church groups,
24 the local historical society. The dining room is
25 always full. And it changes but it continues to be

1 full. And it's just the community comes and helps
2 each other.

3 Then there are people in Deposit, the
4 artists and musicians. Will they stay when there is a
5 problem with the basic ingredient of life like your
6 water? And remember, Deposit this year will be 200
7 years old. And this is, as we know ---.

8 ATTORNEY BUSH:

9 Sorry. That's time.

10 MS. SCHAB:

11 So please, these are people. They are
12 not statistics. And they are more important than
13 Exxon's bottom line. Thank you for hearing me.

14 CHAIR:

15 Thank you.

16 ATTORNEY BUSH:

17 Hester Greene, Larry Braverman, Leona
18 Fluck, and George Fluck.

19 MS. GREENE:

20 Thanks for the opportunity to talk to
21 you. I came here to ask that water quality be
22 protected as critical to the health of the main stem
23 of the Delaware. I oppose Exxon XTO Energy's
24 application to withdrawal a quarter of a million
25 gallons of water. It must a great coup for Exxon to

1 acquire XTO with this application in the approval
2 pipeline, so to speak. As I see it, this becomes an
3 asset to them immediately, and they're applying for a
4 location that, to quote your docket, would not at
5 present be subject to water supply charges as the
6 point of withdrawal is above the USGS stream-gaging
7 station in Montague. This is only one of the many
8 things that has to be decided before they can begin
9 putting this application to use.

10 Every month I go to the meetings at the
11 Upper Delaware Council. And this speaks to the fact
12 that the cold water coming down from that far up is
13 affecting the cold water flow in the Delaware that we
14 are very concerned with at the Upper Delaware Council.
15 There is no way that this volume of water, if it's
16 taken out of Oquaga Creek, is going to be replaced by
17 releases at Cannon --- excuse me. Cannon. So I said
18 again, it's important to the people up there. It's
19 also important to the people who live along the main
20 stem. It's also important to the people who use this
21 water resource. So I request that you deny this
22 application. It's the tip of the iceberg, and you
23 need to figure out how you get there how you can treat
24 all the requests for this water that will come. Thank
25 you.

1 CHAIR:

2 Thank you.

3 ATTORNEY BUSH:

4 Larry Braverman.

5 MR. BRAVERMAN:

6 I'll make this short and sweet. I know
7 this is with respect to you as people. I demand that
8 you deny the approval of this XTO docket for water
9 withdrawal from Oquaga Creek. Approving and
10 regulating the water withdrawals are a lot of work,
11 especially for the gas industry. They must use all of
12 their band aids to sidestep regulations and sidestep
13 the impacts and sidestep the costs to the environment
14 and damage they cause.

15 This is a proven track record. I've been
16 coming to these meetings for now about two years and
17 you've been very thorough and diligent in most all the
18 dockets you receive and approve. But you have dropped
19 the ball when reviewing the gas industry dockets.

20 Why is the public comment on this docket
21 only a bare minimum of ten business days? The comment
22 period should be as long as it takes to develop the
23 regulations. Perhaps when the regulations are
24 completed, this water withdrawal will not even be
25 allowed.

1 I must say, when it comes to the handling
2 of gas industry matters, either your hands are tied or
3 you've been bought. You do have the power to control
4 and regulate every use or misuse of the water in this
5 watershed. Why aren't you using that power? Where is
6 the requirement that the gas industry should be given
7 any of that water for this use? A person making
8 decisions on these matters should be able to answer
9 this question of damage that I've asked for at the
10 last meeting. I directed it to the Pennsylvania
11 delegate, and the Army Corps of Engineer's delegate
12 who aren't here now. It's two different people. But
13 what is the collateral damage that you expect?

14 CHAIR:

15 For this docket?

16 MR. BRAVERMAN:

17 For this docket and for the gas flow
18 industry, gas industry.

19 CHAIR:

20 Well, I'd like to wait until all the
21 federal agencies have contributed their analysis and
22 comments before I speak on their behalf. We don't
23 have a 404 application for this.

24 MR. BRAVERMAN:

25 Okay. Then why aren't you holding off on

1 this whole system here? Why aren't you putting a stop
2 to gas wells?

3 CHAIR:

4 I'm not sure that you want to take the
5 public's time for us to respond to these questions
6 directly.

7 MR. BRAVERMAN:

8 That's a flim-flam answer, sir.

9 CHAIR:

10 Well, I'm just ---. Why don't you ask
11 your question again and I'll answer it.

12 MR. BRAVERMAN:

13 Yes, sir. What is the expected
14 collateral damage in the Delaware River Basin from
15 hydrofracking?

16 CHAIR:

17 So you're asking me the question that
18 goes to this particular docket?

19 MR. BRAVERMAN:

20 Well, this particular docket is included
21 in that.

22 CHAIR:

23 This establishment worked with XTO Energy
24 and was attempting to bring this document forward
25 because they believed the impact was within the

1 parameters of the Delaware River Basin Commission
2 standards.

3 MR. BRAVERMAN:

4 Okay then. What happens when it's
5 \$5,000?

6 CHAIR:

7 Well, that's a question that goes to a
8 cumulative impact study.

9 MR. BRAVERMAN:

10 That's a question, that's not an answer.

11 CHAIR:

12 I don't think you --- you know that all
13 the Commissioners support the cumulative impact study.

14 MR. BRAVERMAN:

15 Why weren't these denied after that
16 impact study?

17 CHAIR:

18 You'll have to contact the members of
19 Congress and the state legislatures.

20 MR. BRAVERMAN:

21 No, it was denied by the DRBC not to use
22 them.

23 CHAIR:

24 I don't think that's true at all.

25 MR. BRAVERMAN:

1 It was offered by Hinchey. He tried ---.

2 CHAIR:

3 Representative Henchi and Representative
4 Holt who sat in the last Congress offered their
5 support with the proposed bill to fund the impact
6 impact study. That bill was not passed by Congress.
7 There was no appropriation. And we received no money.

8 MR. BRAVERMAN:

9 Why doesn't the DRBC want to hold off on
10 everything until this environmental impact study comes
11 out?

12 CHAIR:

13 Well, because the DRBC doesn't want to be
14 brought into a catch 22 situation where there is no
15 money for a study and postpone and impede economic
16 activity in the basin waiting for that study to be
17 completed for which there is no funding.

18 MR. BRAVERMAN:

19 You can't do that. I mean, you're taking
20 a big risk for our water here, everybody's water.

21 CHAIR:

22 We can make the same argument for any
23 number of activities using that water in the basin.
24 And then we'll never approve any dockets for any water
25 use, for any purpose, recreational, environmental, or

1 otherwise if you negate the need to fish at all and no
2 benefits to the watershed would be retained by
3 anybody.

4 MR. BRAVERMAN:

5 Well, the energy industry has an
6 atrocious track record. That would put glance up to
7 you, wouldn't it?

8 CHAIR:

9 I think the Commission seeks to impose
10 natural gas regulations that attempt to address the
11 questions of human impacts, and the public's had a
12 chance to comment on those. We're in the process of
13 those comments now.

14 MR. BRAVERMAN:

15 Well, what are your thoughts, Executive
16 Director?

17 MS. COLLIER:

18 I don't think it's appropriate for me to
19 answer this. We're trying to hear from the public.

20 MR. BRAVERMAN:

21 Okay. Thank you very much.

22 CHAIR:

23 Thank you.

24 ATTORNEY BUSH:

25 Leona Fluck. Then George Fluck and then

1 Ann Seligman.

2 MS. FLUCK:

3 I'm a resident of New Jersey and oppose
4 the approval of Exxon Mobile's XTO application for a
5 water withdrawal from the Oquaga Creek in Broome
6 County for gas drilling. As we heard today, the
7 Oquaga's pristine waters supply essential habitat for
8 trat motor special species. This would absolutely be
9 impacted by the completed withdrawal.

10 New Jersey DEP Commissioner Martin spoke
11 at our April 22nd, Sierra Club birthday cleanup in
12 Mercer Park on the banks of Lake Mercer and the
13 Assunpink Creek, which is a tributary of the Delaware
14 River Watershed. There Commissioner Martin said that
15 New Jersey is committed to protecting the basin. To
16 me, that means that the New Jersey DRBC Commission
17 member and all Commission members, including the Army
18 Corps of Engineers would deny this application.

19 The DRBC is analyzing the impacts of gas
20 drilling and has a drilling moratorium in place while
21 developing gas regulations that could affect this
22 withdrawal proposal. The DRBC has only given ten-
23 working days' notice of this proposal. In summary,
24 please do not approve this withdrawal request,
25 schedule a public hearing with sufficient notice for

1 the Oquaga Creek residents, and keep the moratorium in
2 place on gas drilling in the Delaware River Watershed.
3 Thank you.

4 CHAIR:

5 Thank you.

6 ATTORNEY BUSH:

7 George Fluck.

8 MR. FLUCK:

9 Hi. I'm George Fluck, and I'm the
10 special events coordinator for the National Human
11 Safety Patrol. And I'm glad to hear Carol mention the
12 seminary coming up in Delaware. It's a wonderful
13 event. And it's celebrating the Delaware River.
14 What's it called, Carol? The link?

15 MS. COLLIER:

16 River of life.

17 MR. FLUCK:

18 The River of Life. Isn't this amazing?
19 We have a potential of turning it into a river of
20 death with all --- if we don't do our jobs right
21 collectively.

22 One thing that I really am a big
23 supporter of the DRBC. Have been for many years. And
24 recognize that they are in a really real tough
25 position to monitor all of the activity that goes on

1 and how are things measured and reported and how the
2 metrics come in to the DRBC and for us out here in the
3 audience, how does it get reduced down to the
4 terminology that we can comprehend and understand?
5 And it just seems today that we heard about the new IT
6 budget and requirements and looking at some of these
7 dockets, this one in particular, I notice there's some
8 missing --- a missing section. It probably should be
9 included in every docket from now on, and that is what
10 we call the real-time monitoring component.

11 What that means is instrumentation that
12 is located at various sites that can do measurements
13 and supply that information in real time by the
14 second. It comes into a computer. The computer can
15 reduce it and bring it down so we know where we have a
16 situation. It's the only way that the DRBC can even
17 get their arms around monitoring thousands of wells
18 and thousands of activities. The problem sometimes is
19 the technology doesn't exist today, but it may exist
20 six months from now.

21 So how do we handle that? Well, you've
22 already seen some of the dockets that the ED, the
23 executive director, has the right to respecify the
24 monitoring of a given site. This simply can be
25 expanded to say instrumentation needs to be adapted.

1 I can't wait five years in between the adapting of
2 monitoring. There has to be an open end with some
3 level of control financially for the applicant, but
4 desperately, the IT system has to be upgraded to
5 include real time monitoring. And to us out here in
6 the audience, I just want to see a green light, a
7 yellow light.

8 ATTORNEY BUSH:

9 Time's up. Thank you.

10 CHAIR:

11 Thank you.

12 ATTORNEY BUSH:

13 Ann Seligman and then Terry Stimpfel, Al
14 Benner, and Ruth Lachman Sueker, and Craig Hall.

15 MS. SELIGMAN:

16 And thank you for whoever called my name
17 for pronouncing my name right. That's so rare. And
18 as a member of my local community board, I also
19 sympathize with your position in hearing the same
20 comments over and over. But it also brings to mind a
21 comment that I heard enough times that it stick with
22 me from a teacher 35 years ago who said repetition
23 penetrates even the dullest of minds. Nothing
24 personal.

25 But, you know, there's a reason that

1 there are 37 people here all saying we don't want
2 this. And I think it's important that you hear it
3 over and over again and that you get 7,100 e-mails.
4 And it says something and it says something that I
5 haven't heard anybody from XTO here. That says
6 something too.

7 And it all says something that hopefully
8 reminds you of your responsibility and who you are
9 responsible to. You are all representatives of
10 elected officials. And this is who elects you. You
11 are not elected by the oil and gas industry. They may
12 help with some funding, which is why I think actually,
13 different conversation, you know, that's campaign
14 funding reform, different issue. But I think they're
15 connected.

16 A couple of the specific comments that I
17 do want to repeat --- well, actually nobody else has
18 said. I'm a little bit cynical about your decision
19 not to vote today. I understand why you don't and, of
20 course, I hope it's because you want to take into
21 account all the things that you're hearing here. But
22 I think there's also an easy out to not have it be a
23 public --- going against what the public audience
24 would want. And so I really hope this is not just a
25 way to backdoor an unpopular answer.

1 This specific docket is one of the
2 critiques that I had in the comments that I submitted
3 in response to the draft regs that were published in
4 December. I think you voted to fast track water
5 withdrawals is very interesting, and that's what's
6 happening right now. As one of my friends said to me,
7 it's putting the cart before the horse. Why do we
8 have a moratorium? Why would we even think about
9 approving water for this usage?

10 And one of the other things was a lack of
11 a cumulative impact analysis. You have those
12 comments. I did submit them, you know, prior to the
13 deadline for that. But I'm happy to share them with
14 you again. Not now in my three minutes.

15 Another comment that people have not made
16 is that speaking of economics and people have talked
17 about, you know, is this something --- is developing
18 the gas industry good for the economy? I would note
19 that in many parts of the country, insurance companies
20 refuse to insure areas, homes and properties, where
21 fracking is happening. And that, you know, insurance
22 companies, they do the numbers. They crunch the
23 numbers, and that's something I would keep in mind. I
24 think that's my time.

25 ATTORNEY BUSH:

1 Thank you.

2 MS. SELIGMAN:

3 Normally, I would end with thanks, but
4 I'll save that until I see you in Broome County.

5 CHAIR:

6 Thank you.

7 ATTORNEY BUSH:

8 Terry Stempfel, Al Benner, and Ruth
9 Lachman Sueker.

10 MS. STEMPFEL:

11 Good afternoon, Terry Stempfel. I'm
12 afraid I'm not going to be as humorous as some of the
13 commenters, but I'll try to be quick. I'm a member of
14 the New Jersey Sierra Club, executive community
15 member, Fracking Issues Coordinator, and chair of the
16 Central Group. We have 1,700 people, some of whom
17 actually drink the river water here. So we really do
18 care. Thank you for hearing me.

19 The DRBC appears to be ignoring the
20 river, people, environment and science in favor of
21 drillers. You can change this going forward. Natural
22 gas development, specifically the XTO withdrawal, is
23 not for the environment. There are no national, state
24 or DRBC environmental regulations that adequately or
25 even barely control the devastating effects that are

1 emerging from the wholesale natural gas extraction,
2 hydraulic fracturing, and stream destruction that's
3 occurring in the Marcellus and beautiful formations.

4 There is a moratorium on drilling in the
5 Delaware River Watershed, and New York has a
6 moratorium. You've received tens of thousands of
7 comments in response to your proposed rules. To
8 adequately digest these and seriously consider
9 continuing the moratorium or significantly modifying
10 the rules would take many months or even years. Yet
11 XTO asks for a permit now. Major corporations don't
12 tip their hand on investments and development
13 activities unless there's an assumption of foregone
14 conclusion. The application now for water withdrawals
15 to develop gas wells by Exxon Mobile could be seen as
16 trying to influence your decision to lift the
17 moratorium.

18 Please extend the comment period to 60
19 days, meet in New York, allow those who are affected
20 to speak in person, then deny the application please.
21 Stop water withdrawal since there is inadequate
22 capacity capability to treat this water and other
23 processed water to fully remove all the chemical and
24 radiologic hazards. Just this week Duke University
25 researchers published in a peer review journal a study

1 concluding, quote, systematic evidence for methane
2 contamination of drinking water is associated with
3 shale gas extraction. It increases proximity to
4 nearest gas well. The results are in New York, not
5 some remote different geologic formation in Colorado.

6 The safety of drilling is clearly in
7 challenge. The lack of waste capacity is not. Think
8 of the environment in the creek, a native trout
9 stream. I've never fished in my life, but it's
10 important to some. It's very important to have this
11 groundwater supply for drinking water wells. It's
12 important to protect it. It is a feeder for a feeder
13 to the Delaware River. Don't make it a feeder for
14 drilling. Your actions going forward need to
15 reflect ---

16 ATTORNEY BUSH:

17 That's three minutes. Thank you.

18 MS. STIMPFEL:

19 --- the present study and EPA studies.

20 Thank you very much.

21 CHAIR:

22 Thank you.

23 ATTORNEY BUSH:

24 Al Benner. Is Al Benner here? No. Ruth
25 Lachman Sueker?

1 MS. SUEKER:

2 Good afternoon. I want to extend my
3 appreciation to the River Basin Commission present and
4 past who had stewardship of this river basin before I
5 knew what you were doing. And I'm very grateful for
6 that.

7 I am continuing my conventional studies
8 in environmental health, and am very concerned about
9 the health impacts on present and future generations
10 of this kind of resource use in our basin. But I want
11 to thank you for delaying the vote on this.
12 Obviously, I hope that you will reject the
13 application. I don't think a precedent should be set
14 for permitting water withdrawal without specific
15 wastewater disposal rules within this docket. I heard
16 what was said during the earlier presentation, that
17 those were not included in the docket, so that if
18 changes needed to be made to the wastewater disposal,
19 it could be done without you visiting the docket. I
20 feel that that will give permission and opportunity
21 for changing the wastewater disposal without public
22 review and comment. And I think that that is
23 dangerous and I just want to say I'm disagreeing with
24 that approach.

25 I also feel that by permitting the

1 withdrawals before the project for which the
2 withdrawals are going to be used is being permitted, I
3 feel it is sending a message to industry and it's
4 sending a message to the public that it's very clear
5 that if you do that, the message that the DRBC's
6 sending is clear. And I think that message will be
7 that the DRBC is not going to continue to protect
8 special protected waters. And I think this docket is
9 so critical and that the DRBC needs to really think
10 through what its position is because once it approves
11 this docket, this will be seen as a precedent and will
12 be asked to approve the same type of activity over and
13 over again. So I think this is a very critical thing.
14 It needs to be reviewed. It needs more public
15 comment, and it needs to have all of the stakeholders
16 involved speaking to it.

17 I also wanted to say as to my concern
18 about public health, and I wanted to refer to a book
19 called Living Downstream by Sandra Steingraber who
20 addresses the issues of toxic chemicals that have
21 risen in proportion and magnitude since the industrial
22 development in World War II, that understanding of how
23 these chemicals increase cancer rates, increase
24 neurological health conditions. These levels of toxic
25 chemicals in the water ---

1 ATTORNEY BUSH:

2 It's time.

3 MS. SUEKER:

4 I'll just finish the sentence. Affect
5 unborn children, higher asthma rates and cancer rates.
6 When you only have half the information, cautionary
7 principle must prevail here. Thank you very much.

8 CHAIR:

9 Thank you.

10 ATTORNEY BUSH:

11 Craig Hall, Carol Heffler, and Kirsten
12 Greene. Is Craig Hall ---?

13 MR. HALL:

14 Yeah, how you doing?

15 ATTORNEY BUSH:

16 Okay.

17 MR. HALL:

18 Hello, Commissioners. How are you? Saw
19 film once where a man turned on the faucet in his
20 kitchen and he took a cigarette lighter and put it
21 next to it, and the water caught on fire. And I
22 looked at that and I said that's crazy. I don't know.
23 I don't want to wake up one day and have my kids or my
24 kids turn on the water, put a cigarette lighter to it
25 and let it catch on fire because of methane gas in the

1 water. In that film, it says that Exxon was drilling
2 in that area and Exxon denied having anything to do
3 with it.

4 Same film, another family, water that
5 pollutes came out so bad that the water was brown. I
6 feel that you should deny Exxon the drilling rights or
7 taking any water out of the creek. You should deny
8 the drilling rights to taking water our of any river
9 on the planet. The sad part about it is, Exxon ---
10 what I'm saying, they don't give a damn about what
11 these good people here are saying.

12 And the saddest part about it is I don't
13 know how you all feel about it, if your family and
14 your children moved into areas with pollutants in
15 their water, you have a chance not to be responsible
16 for that. You know what I'm saying. So I just came
17 here to represent the creek. And the creek don't want
18 no more water taken out of it. It don't want no one
19 to take it out to use for drilling of natural gases.
20 It don't want nobody to take no water out of it at
21 all. Thank you very much.

22 ATTORNEY BUSH:

23 Carol Heffler. And then Kirsten Greene.

24 MS. HEFFLER:

25 My name's Carol Heffler. I'm a resident

1 of Lambertville, New Jersey. And I'm here today to
2 help protect the trout stream in New York. Many of my
3 points have already been made, so I won't repeat them.

4 XTO Energy wants to take .25 million
5 gallons of water per day from the Oquaga Creek in the
6 State of New York. This is wrong. There is a
7 moratorium on drilling in the Delaware River Watershed
8 and hydrofracking in New York. Fracking poses a known
9 threat to our water and to our health. The Oquaga
10 Creek is a place of natural beauty and habitat that
11 took nature millions of years to create. How would
12 the trout and the water quality of the Oquaga and the
13 Delaware River be affected by the withdrawal of so
14 many millions of gallons of water every day?

15 You need to wait until the environmental
16 impact study results are in before proceeding. Please
17 step back and think of the consequences for our
18 children and our grandchildren. XTO has no permits
19 for gas wells and has not justified its need to
20 withdraw this huge amount of water from the creek.
21 Please deny the approval of withdrawing water from
22 Oquaga Creek. Thank you for your attention.

23 CHAIR:

24 Thank you.

25 MS. GREENE:

1 Hi. I'm Kirsten Greene. I'm a member of
2 No Gas Pipeline. We are intervenors against the
3 Oquaga pipeline and are represented by Eastern
4 Environmental Law Center. I was also an additional
5 editor on Gas Land, giving me the opportunity to see
6 much more footage than you guys got to see in the hour
7 and a half film.

8 I've never been to a DRBC meeting. I've
9 only seen it on tape. So when the message came along
10 that you wanted to withdraw water, I felt I had to
11 come and spend my entire day here so that you would
12 know how important it is for me to fight this. I went
13 to your website. The Delaware River Basin Commission,
14 charting future, protecting water quality, and
15 conserving water, all words taken from your website.
16 It states that the Commission will be the leader in
17 protecting, enhancing and developing the water
18 resources of the Delaware River Basin for present and
19 future generations. Your words, not mine.

20 It seems obvious then that the
21 application from an Exxon Mobile subsidiary should be
22 denied. They want to withdraw up to 250,000 gallons
23 of water from the creek that flows into the Delaware
24 River, and I just can't get over that number, 250,000
25 gallons per day. There won't be water to protect for

1 our future generations if the water is gone. And
2 there won't be any future generations if our drinking
3 water is contaminated. It's your job, as you sit on
4 this Commission, to do exactly as your vision states,
5 conserve water, protect water quality. Do your job
6 and deny the application. I'm not looking to wait
7 another year and come back and stand before you again.
8 Deny the application.

9 CHAIR:

10 Thank you.

11 ATTORNEY BUSH:

12 Edith Kantrowitz, Celeen Miller, Randy
13 Sklar, and Barbara Arrindell.

14 MS. KANTROWITZ:

15 Hi. I'm Edith Kantrowitz, United for
16 Action, also the New York City Commission for Clear
17 Water. I'd like to thank you for giving me the
18 opportunity to speak. I'll try to say things that
19 haven't been said before.

20 Speaking to the issue of how this will
21 affect the economy, I think we've heard people say
22 that it will destroy jobs in the area. Some people
23 think that bringing hydrofracking will create jobs,
24 but what we have seen is that in many cases the people
25 who have the positions with the hydrofracking company

1 are brought in from other parts of the country, and
2 the jobs have not gone to the local people. And
3 that's something that I think is very important to
4 keep in mind.

5 I also want to point out with each docket
6 resource map, and when we saw the map for this docket,
7 we saw how much further north it is. And as people
8 have said, people have had to travel for four hours.
9 And I would like to make a wager that the people who
10 are in this room right now are people who are either
11 retired, unemployed, or whose careers are involved
12 with environmental issues. And the people in Broome
13 County who are not able to go away from their work on
14 a ten-days notice to make a four-hour drive are not
15 here. And so I think we're asking a very reasonable
16 request and we're pleading with you to extend the
17 comment period so that we can fully present the case
18 on how damaging this will be.

19 We have the question if e New York State
20 has not yet authorized horizontal hydrofracking, if
21 DRBC still has not yet said that we're going to go
22 forward with hydrofracking, then what is the message
23 that is being communicated by approving this
24 withdrawal docket? Are we being told it's a done deal
25 because Exxon wants it? I mean, I'm sure that even

1 though there are economic pressures that one gentleman
2 said, you know, that all parties wanted to see
3 economic growth in the region, but our primary concern
4 here has to be the water.

5 The vitally important thing is life is
6 more important. One person said that these dockets
7 are going to keep coming forward as more water
8 withdrawals are requested. Well, those who oppose
9 hydrofracking are going to keep coming forward also.

10 And I also want to remind everyone one
11 thing, that I think might not even been said today is
12 that we don't need fracking. We don't need natural
13 gas. We don't need fossil fuels. We don't need
14 nuclear power. Studies have shown that the region can
15 meet all its energy needs on totally renewable
16 resources like solar, wind and geothermal power. And
17 this is a direction that we have to go if we want to
18 save our lives and the lives of the future
19 generations, our children, our grandchildren and this
20 planet. Thank you.

21 ATTORNEY BUSH:

22 It's time.

23 CHAIR:

24 Thank you.

25 MS. KANTROWITZ:

1 Thank you.

2 ATTORNEY BUSH:

3 Celeen Miller?

4 MS. MILLER:

5 Good evening. I'm from Bucks County, a
6 resident of Bucks County, PA. I think that perhaps
7 our federal representative might have brought an end
8 to this situation. We do need a cumulative study if
9 there is funding for that. I have a feeling that if
10 you approve no permits, you would have funding by the
11 end of the week. I oppose the withdrawal of water
12 from this stream. If this water withdrawal is
13 approved, it will set a precedent for additional
14 application, and the DRBC will feel additional
15 pressure and will be challenged with an onslaught of
16 applications from companies that might have a lot of
17 money. And I wouldn't want to see the DRBC spend so
18 much valuable time in this type of circumstances and
19 legal issues. So I just wanted to, you know, not
20 repeat anything else but just say that on your website
21 also, there's the wording it's a treasure and I just
22 want to add that it's a treasure to live life a
23 survivor, not just to save it for future generations.
24 And I do hope that we can protect our water and our
25 air and our land.

1 CHAIR:

2 Thank you.

3 ATTORNEY BUSH:

4 Randy Sklar?

5 MR. SKLAR:

6 I'm Randy Sklar from Bucks County, PA,
7 concerned citizen. I'm just going to say what
8 everyone else has said basically, very short. I'm
9 against granting approval for XTO's water withdrawal.
10 The environmental impact is still unknown.
11 Moratoriums are in place. What's the hurry? Let's
12 find out for certain what the impacts are and make
13 sure any applications for gas drilling water usage are
14 held to the highest scrutiny.

15 Why are we considering applications where
16 there are two moratoriums in place? It seems that the
17 industry has decided that it's a foregone conclusion
18 that the DRBC will lift the moratorium.

19 The DRBC needs to protect the public
20 interests from a well-funded and powerful industry
21 that has demonstrated their willingness to cut corners
22 and fight regulation and put profit before people. We
23 cannot survive without water, and should be very
24 careful not to waste and degrade this precious
25 resource. Thank you.

1 CHAIR:

2 Thank you.

3 ATTORNEY BUSH:

4 Barbara Arrindel?

5 MS. ARRINDELL:

6 My name's Barbara Arrindell. I'm from
7 Damascus Citizens for Sustainability. I have serious
8 questions about this docket that should be answered
9 before the docket is approved. Why is this docket
10 being rushed through with only the bare minimum time
11 to make it legal? Why is the hearing as far from the
12 location of the docket as possible? Why are the truly
13 wonderful inhabitants of the stream, the native trout,
14 all the ecology allowed to live not taken into
15 account?

16 Under PA law, this should be --- under
17 New York law this should be an endangered species law,
18 this should be. Who did the measurements to establish
19 the passby numbers? They seem woefully inadequate.
20 Why is XTO to operate the gauges instead of having to
21 pay an independent agent to do this? Why are there
22 caveats to allow changes to every condition by the
23 executive director or the Commissions, changes that do
24 not allow public comment?

25 The allegation and the desire of the DRBC

1 to do a cumulative impact study reiterated by Chairman
2 Deluca a few minutes ago is a study that can and
3 should be paid for by the entities that are applying
4 to drill and to take this water from the Delaware
5 River Basin. As a matter of fact, the CEQ, the
6 Counsel Environmental Quality, not only requires a
7 study first, but also is giving the agency leave to do
8 the cumulative impact study, the DRBC, the legal
9 ability to charge for this study, and that a lack of
10 funding is no legal excuse for not doing the study.

11 Additionally, the argument that there is
12 a net positive economic value to gas drilling in
13 general and in relation to the water withdrawal from
14 the Oquaga Creek, this argument is false. A whole
15 series of economic studies by Head Waters Economics by
16 Jeanette Bar, the Ph.D. Economist and by the
17 unemployment figures calculated by the Department of
18 Agriculture in Arkansas, by the State of Pennsylvania,
19 and by the State of Texas, looking at areas where
20 there has been drilling, in these areas the
21 unemployment rates have gone up during the time when
22 there was drilling. This reflects a negative economic
23 impact of drilling.

24 There has been no calculation of the
25 economic benefits provided by the fisheries and

1 specifically along the Oquaga Creek area. How can the
2 DRBC approve this water withdrawal during this gas
3 drilling moratorium? I request that the docket not be
4 approved, and that now that the docket has been
5 tabled, I expect that the docket when returned to for
6 consideration will be different, and there will be a
7 reasonable, at least 60 to 90-day public notice, and
8 that a new hearing for public comments will be a more
9 accessible place.

10 ATTORNEY BUSH:

11 It's time.

12 MS. ARRINDELL:

13 Is that it?

14 ATTORNEY BUSH:

15 Yes, it was. Thank you.

16 CHAIR:

17 Thank you very much.

18 ATTORNEY BUSH:

19 Buck Moorehead, Rick Williams, and Jenny
20 Preston?

21 MR. MOOREHEAD:

22 Good afternoon. I'll kind of forget my
23 comments as most have been stated. I appreciate the
24 DRBC being here. As usual, I'm very happy that I'm
25 not in the Susquehanna River Basin having this kind of

1 conversation. I do say that one thing has become very
2 clear today in listening to these comments, is that
3 May 5th of 2010, the findings, I didn't remember this,
4 but this was the date when the Commissioners directed
5 the Commission Staff to do the draft regs, and
6 specifically also directed the Commission Staff to
7 proceed with water withdrawal applications. And I
8 think that this so clearly --- hearing the comments
9 today and looking at this, the whole docket, that this
10 is a flawed approach to this.

11 And I'm with NYH20. I feel that this
12 docket should really be withdrawn because what's
13 happening here is there's a tremendous amount of
14 energy going to evaluate the request for water when
15 you look at the docket --- and I admire the drafting
16 of this docket. I haven't read many of them. But
17 there are 35 conditions to this docket. And that's
18 because it's protecting against all kinds of things
19 that aren't known. So there's efforts to cover this,
20 cover that, cover that condition, this upon this upon
21 this upon this. And that's because there isn't enough
22 clarity at all about what the outcome of the activity
23 is. So to separate the water withdrawal from the
24 activity is really just creating tremendous extra work
25 for the Commission because this is a \$17,000

1 construction and design project. I mean, it could
2 happen in like two or three days. These guys throw in
3 an intake, probably in the road or whatever they have
4 to do up there or wherever they do it. And yet we're
5 here talking about it.

6 And as other people have stated, there
7 are all kinds of other steps that would influence
8 positive decision. So that's my main suggestion here
9 is that the Commission rethink this separation of
10 these two and look at the whole process holistically.
11 It doesn't happen any faster for the energy companies
12 if they get this water withdrawal docket approved.
13 It's still time dependent on all these other regs to
14 be withheld. So I would suggest very strongly that
15 this be withdrawn and rethought. And I think it's
16 very important not one application get through this
17 way because it will open this and, you know, people
18 are going to be saying someone else got it, we want
19 the same deal. So thank you very much.

20 CHAIR:

21 Thank you.

22 ATTORNEY BUSH:

23 Rick Williams? You don't look like Rick
24 Williams. Jenny Preston?

25 MS. PRESTON:

1 Good afternoon and thank you, Commission.
2 I'm a Delaware Watershed resident of Buckingham
3 Township, Pennsylvania. I'm also a volunteer with the
4 Delaware Riverkeeper Network. Today like many who
5 have spoken before me, I'm asking you to refuse
6 approval of XTO Energy's application on water
7 withdrawal of 250,000 gallons of water per day from
8 the Oquaga Creek in Broome County while there is a
9 moratorium on all gas drilling from the river basin,
10 including one for hydraulic fracturing in New York
11 State.

12 It is unacceptable to authorize any gas
13 drilling activity, including water withdrawal, since
14 XTO's site cannot be approved for drilling when no
15 regulations for compliance exist. With regards to
16 economics, and many have spoken about this today, one
17 wonders how this little New York community will even
18 benefit from gas activity when the large share of
19 natural gas industry jobs, particularly the higher
20 paying jobs, are given to out-of-staters who travel
21 with the gas drill companies who have had prior
22 experience in this area at the same time as we've seen
23 major budget cutbacks in our job training programs.

24 In addition, so much natural gas is being
25 exported. Foreign companies are buying out our gas.

1 And what does this do ultimately? The economics? To
2 the economics, it raises our prices here. It's a very
3 good chance of that happening. So how does this
4 benefit our communities where the gas drilling is
5 invaded by hydraulic --- where the communities are
6 invaded by hydraulic fracturing and industries have
7 very little concern for their needs and their
8 interests?

9 By 2013, 36 states will face water
10 shortages. According to recent polls, Americans
11 consider water shortages to be one of the most serious
12 environmental concerns with 96 percent of all
13 Americans agreeing it is important for all people to
14 have adequate drinking water, and 88 percent worrying
15 that fresh water shortages will become increasingly
16 severe worldwide. Of all the earth's water, only one
17 percent is readily accessible for human use, just one
18 percent out of 100. A person can survive for one
19 month without food, but only five to seven days
20 without water. Anywhere from one to eight million
21 gallons of water are needed to frack a well. Each
22 well could potentially be fracked as many as 18 times.
23 Water for 15 million people served by Delaware River
24 Basin is at risk of being segregation as well as
25 depletion due to gas drilling activities by high

1 volume slick water hydraulic fracturing. These
2 activities include massive water withdrawals like the
3 one XTO Energy's asking DRBC to approve.

4 Can the Oquaga Creek extends as far as
5 volume withdraws and continue to maintain the health
6 of its aquatic systems? According to the New York
7 State Department of Environmental Conservation, the
8 Oquaga Creek water withdrawal site under consideration
9 is located in a drainage area special protection
10 waters with waters of exceptional value, high quality,
11 and high water quality. These waters contain valuable
12 sensitive fisheries for trout, habitat for aquatic
13 life, entitled to special protections under the law.
14 This site is also located within a 100-year flood
15 plain, which also inherits special consideration.
16 Further, it is a cold water creek enjoyed by many for
17 recreation. On May 5th, ---.

18 ATTORNEY BUSH:

19 It's time.

20 MS. PRESTON:

21 Can I say one more thing?

22 ATTORNEY BUSH:

23 Yes.

24 MS. PRESTON:

25 This is again, an example of putting the

1 cart before the horse. So please, please don't make
2 this decision prematurely. Extend public comment
3 period for 60 days and schedule public hearings in
4 Broome and Delaware Counties. Thank you.

5 CHAIR:

6 Thank you.

7 ATTORNEY BUSH:

8 You must be Rick Williams. And then we
9 have Nancy ---.

10 MR. WILLIAMS:

11 Thank you for the opportunity to speak
12 here today. I'm a resident of the Town of Sanford.
13 And you know, the landowners in our town and
14 neighboring areas overwhelmingly support XTO's
15 application. You know, there's been a lot of talk
16 here. All I hear is about hydrofracking. You know,
17 if everybody had an environmental concern here, they
18 would look at alternatives. XTO made this application
19 last year, okay. It was about a year ago, wasn't it?
20 Also they have a need for water for preliminary
21 stages. You know, everybody here knows that
22 hydrofracking is not going to be allowed, maybe not
23 never allowed. But I don't understand the issue, is
24 it hydrofracking, or is it safe progress? There's
25 alternatives right now that can be used that are safe,

1 that don't contaminate the ground. There's air,
2 there's gas. That doesn't put pollutants into the
3 water, you know.

4 So, you know, we're here, you know.
5 We're a dying town, you know. All the landowners
6 support this. You know, we all welcome this as a
7 positive step in a right direction, you know, to
8 secure our future. And we really don't ---. For
9 three years now, you know, we've been challenged by
10 people who think that they have the right to dictate
11 what we do with our lands. This challenge has
12 interfered with your decision-making too. I mean, I
13 don't know at what point in time that we as landowners
14 have been relieved of our rights, you know. And I
15 don't know.

16 It's just, you know, we all worry about
17 the water withdrawal so much. I mean, it was three
18 items on the docket there today on the agenda from
19 golf courses that use almost twice the XTO withdrawal,
20 you know, in a month. You know, we did a lot of
21 research before we contracted last year. You know,
22 we've been at this almost four years. We don't want
23 people destroying our lands. But if you're going to
24 choose a responsible sound company, you know, you go
25 after that. You research that, you know, and that's

1 what we did.

2 Now, XTO's a premium company, and they
3 maintain the strictest environmental awareness and
4 consciousness every step of their operation.
5 Thousands of wells have been developed in the
6 Susquehanna River Basin without incident and operate
7 24/7 with incident-free production. You know, there's
8 alternatives, you know. They need water now. People
9 have been asking why do they need it now. Well,
10 there's months of preliminary work that require water.

11 ATTORNEY BUSH:

12 That's time.

13 MR. WILLIAMS:

14 Well, thank you. You know, we're here to
15 urge you to vote on this today, but I guess it will be
16 a delay. Thank you.

17 CHAIR:

18 Thank you.

19 ATTORNEY BUSH:

20 Nancy Hedinger, David Pudlow or Pudlow
21 (changes pronunciation), Freda Black, and Tracy Fitz.

22 MS. HEDINGER:

23 Good evening. I'm Nancy Hedinger. I'm a
24 representative of League of Women Voters of New
25 Jersey. We the League of Women Voters, and I would

1 urge you to deny this permit. You know I'm all out of
2 order here. I apologize.

3 First, there's been no completed study to
4 take the cumulative health impact. We talked about
5 the EPA study and we asked in our last testimony that
6 the DRBC wait until the results of those studies come
7 in. The energy secretary has formed a panel to study
8 the cumulative impacts on health, and he promises the
9 results within --- the result recommendations within
10 90 days and the advice to states and feds within three
11 to six months. I think we can wait six months. Why
12 are we letting Exxon drive this process?

13 Secondly, DRBC is currently analyzing the
14 comments on the draft branch gas drilling regs of the
15 Delaware Basin. We wish you'd focus your resources,
16 talents, and attention on developing these regulations
17 that will protect the quality and quantity to the
18 water supply which serves 15 million people, not the
19 premature wishes of Exxon.

20 And I'm going to finish my third ---
21 finally, a public hearing in West Trenton, 200 miles
22 from Broome County at 1:30 in the afternoon, when the
23 most affected residents are at work earning a living
24 regarding a permit that will allow a practice that
25 will potentially impact the environment of citizens of

1 Broome County and downstream residents as well
2 deserves meaningful publication. Thank you.

3 CHAIR:

4 Thank you.

5 ATTORNEY BUSH:

6 David Pudlow.

7 MR. PUDLOW:

8 My name's David Pudlow. I'm here on
9 behalf of the United for Action, located in New York
10 City. Again, just since I'm going close to last, most
11 of the things that I wanted to say have already been
12 said, so I just want to echo my support for comments
13 made by Buck Moorehead, by Damascus Citizens and by
14 Tracy Carluccio. And I also want to point out, if it
15 hasn't become clear to you guys yet already, that what
16 I think we're really looking at today is DRBC's level
17 of credibility.

18 Are you merely a political entity at this
19 point? Given the schedule issues that have been
20 presented in terms of the 10-day period, also the
21 distance from the area directly affected, it doesn't
22 look good for you right now. Also, given the
23 consideration that there is a moratorium in place in
24 New York State, in the DRBC area itself, and that
25 there is a supposedly thorough review being done by

1 the EPA at this moment, that means that you have
2 state, federal, and you guys are a state and federal
3 composite, it seems that considering this issue right
4 now is akin to giving us the verdict first and then
5 going to deliberations later.

6 Also, economic concerns that were
7 expressed about Exxon and XTO's by relation, their
8 past environmental record as expressed by Damascus
9 Citizens, and also given the events that have occurred
10 recently in Bradford County, Pennsylvania, and many,
11 many other localities, I would have to say that in
12 considering this, are we considering giving a gun
13 permit to a repeat offender who is currently seeking
14 parole?

15 And my last comment is to point out that
16 all of you on this board are essentially individuals.
17 You were not given birth to by the government agency
18 that you work for, whether it's state or federal. You
19 are human beings, and you all have, to whatever level
20 you have it, a conscious. So the decisions that you
21 make are yours as individuals. If you go forward with
22 allowing things that will lead to increased
23 hydrofracking in your state or anywhere else, you are
24 complicit. You are aiding and abetting. Thank you
25 very much.

1 ATTORNEY BUSH:

2 Thank you.

3 ATTORNEY BUSH:

4 Freda Black.

5 MS. BLACK:

6 Hello. My name is Freda Black. I'm here
7 from Chemung County on the border of Tioga County,
8 very close to Oquaga Creek. And the first thing I
9 want to say is I am here because I'm unemployed, and I
10 was able to spend seven hours on my little scooter
11 coming down here because I can't --- gas is expensive.
12 And I want to first say that I can't speak for all my
13 neighbors because I only found out about this today.
14 And I do want to speak to the fact that I love my farm
15 up in upstate New York. And my neighbors also love
16 their lands. And my memories of Oquaga Creek are with
17 my infant son playing in the water and, you know,
18 having no thought 16 years ago about these kinds of
19 things happening.

20 I don't think, thinking of the time
21 limit, of course, I haven't had time to research this.
22 I'm not here to argue about Marcellus shale drilling.
23 I don't think this is the time or place. I do want to
24 really from the bottom of my heart urge you to
25 consider making it possible extending the comment

1 period to 90 days giving those of us upstate time to
2 really research what this proposal means, get
3 ourselves together. My neighbors are planting corn
4 right now. This is not a time when we can be spending
5 the time, those of us who have farms, doing the
6 research, getting together and talking with each other
7 about it.

8 I want to add a few other things that I
9 haven't heard added other than please bring it upstate
10 to where my neighbors and I can be prepared and speak
11 to you about what this area and what our way of life
12 means. Just as we have experienced a land rush, I've
13 been turning away land. I'm one of those people who
14 could be sitting on a pile of money now and has chosen
15 not to because even though my family is struggling to
16 survive because that gas isn't going anywhere. I'm
17 not saying that gas should never be developed. I'm
18 realistic. I'm concerned about the people in
19 Appalachia who are living in the shadow of mountain
20 tops that are blown off. I believe in renewables, but
21 I also know that it's taking this country time to
22 move. I'm not arguing pro or con.

23 ATTORNEY BUSH:

24 It's time.

25 MS. BLACK:

1 If I could just --- because I traveled so
2 long, if I could have one more minute if it's okay
3 with you. I just want to suggest that wouldn't it be
4 better for the Commission in light of the fact that
5 you don't know yet what the cumulative impacts are or
6 even what the impacts of individual companies are to
7 hold the possibility of using your power over the
8 water, to have some choice in the matter over which
9 players do get to drill when it comes to that time, to
10 which best practices are rewarded by having the water
11 or perhaps not using water at all, using other things
12 like propane or air or other methods that are being
13 developed. But keeping the power in your hands as you
14 should have it to decide who gets to use the water and
15 when and in what quantities.

16 CHAIR:

17 Thank you.

18 MS. BLACK:

19 Thank you.

20 ATTORNEY BUSH:

21 Tracy Fitz, sorry. Tracy Fitz. And then
22 Kayla Riffle.

23 MS. FITZ:

24 I'm Tracy Fitz, and I'm from Brooklyn,
25 New York. And I want to thank you for meeting here

1 and having this meeting for everyone and participating
2 in a democratic process. It seems as though the
3 democratic process lost something around 1998, 2001,
4 2002, when the Clean Water Act and the Clean Air Act
5 and the Clean Drinking Water Acts were exempted. The
6 rules in them were exempted from hydraulic fracturing.
7 That's why we're here today and why you are faced with
8 having to make these decisions. These decisions
9 should have been taken care of in the federal
10 government level. They are not. You are having to
11 make them. And as citizens, they wouldn't have been
12 made and left there, but there were people who were in
13 government who had many lobbyists and persuaded
14 legislators to let the rules go through the Halburton
15 clause for clean water, clean air, and clean drinking
16 water.

17 And Arkansas, it has been shown, that
18 there are earthquakes. They stopped when the fracking
19 stopped. In Texas, people are sick from fracking. In
20 Wyoming and Colorado, people are sick from fracking.
21 Not just the water, but the air, the land, the
22 animals, the plants. In Saudi Arabia, where most oil
23 refiners are in the world, most of the children born
24 there have cancer. A lot of the fluids used in
25 hydraulic fracturing contain some of the same

1 hydrocarbons that are made during petra chemical
2 production, and they cause cancer. And the companies
3 that claim that they are not responsible, that has
4 been an argument that was used for many years, and it
5 took many years for the Clean Water, the Clean Air,
6 and Clean Drinking Water Acts to get made in such a
7 form that they've cleaned up our rivers. Our rivers
8 are cleaner because of those rules.

9 And they got wiped out, and that's how
10 long hydrofracking has been going on. And the
11 accumulation of the damages has been going on. And
12 now we're in a fight again in Congress, and you are
13 here trying to make these decisions too with very
14 little resources on what to do. And I urge you to ban
15 hydraulic fracturing because there are no rules that
16 actually take into account what it does.

17 And as another person said, most homes
18 cannot be insured near the process. We pay for
19 nuclear accidents. They were exempted in 1957 from
20 having to be responsible for their accidents. I think
21 it's time that --- in Australia, there's a paper ---

22 ATTORNEY BUSH:

23 It's time.

24 MS. FITZ:

25 --- that has content of what

1 hydrofracking means. So it's all over the world.
2 Thank you.

3 CHAIR:

4 Thank you.

5 ATTORNEY BUSH:

6 Kayla Riffle and then Matt Morgan.

7 MS. RIFFLE:

8 Hi. I'm Kayla Riffle and I live in
9 Harrisburg, New York. I am an organic farmer and I've
10 been studying this issue for the past several years.
11 There's so many things that everybody has already
12 addressed that I agree with about the issue.

13 One point that I feel hasn't been
14 discussed is I'm curious with ---. First of all, I
15 have compassion for you in all of your positions
16 because it's quite a responsibility to decide about
17 these things in any way, shape or form. What I found
18 in my research is what was most impactful to me was to
19 go to the areas where this industry has already come
20 in, where they coerce people to sign leases, where
21 people, say in Susquehanna County, Pennsylvania, then
22 Bradford County, Pennsylvania was sort of pressed as
23 it was going to be the new poster child, they were
24 going to get it right there. There were a lot of
25 people that were for it. The town welcomed it, such

1 as these gentlemen that came from this area are. You
2 know, there's a lot of farmers that they need to find
3 a solution to make money.

4 Unfortunately, now that the industry has
5 come in, what I've seen and what a lot of people in
6 these areas have seen, they're having potable water
7 that has to be delivered in water buffaloes. I'm just
8 curious how many people in the room have taken a
9 shower in water from a water buffalo? Or how many
10 people have washed their clothes in water from a water
11 buffalo? I think it's so important that we look at
12 the long-term effects because these people that are on
13 water buffalos, they have three years of them. No
14 solution result whatsoever. No solution coming.

15 And in Bradford County, I was there a
16 week before it happened. I saw the damage to the
17 road, the truck traffic. The most disturbing thing to
18 me was trucks that said fresh water only. Only. I
19 lost sleep over that because I just can't comprehend a
20 truck that says fresh water only. It's more
21 disturbing to me than a truck that says residual waste
22 water because they just went on and on and on and on.
23 Every two minutes, another truck, this way, that way,
24 just nonstop. And I'm thinking about this one permit
25 that you're asking. They're asking for 250,000

1 gallons a day. The trucks are 10,000-gallon trucks,
2 5,000-gallon trucks. Do you're talking, you know, 25
3 trucks a day, 50 trucks a day. That's one permit.
4 Then another month goes by. You got two permits. You
5 have 100 trucks a day. The road damage that I've seen
6 in these areas is awful.

7 The cleanup that I've seen after the well
8 site blowout in Bradford County this past week, I find
9 unacceptable. Chesapeake Energy came in. They
10 repaved roads. They redug ditches. They tried to go
11 around and fix everything because now they're getting
12 attention in that area because the people see what's
13 happened. They should have done that ahead of time.
14 Everything I have seen the industry do, they go back
15 and fix a problem or they show no regard for damage to
16 the homeowners, to the people, to the land, to the
17 animals, to the situation. They take no
18 responsibility besides extracting that gas. And
19 that's not ---

20 ATTORNEY BUSH:

21 That's time.

22 MS. RIFFLE:

23 --- more precious than water.

24 ATTORNEY BUSH:

25 Thank you.

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CHAIR:

Thank you.

ATTORNEY BUSH:

Janet Morgan?

MS. MORGAN:

Hi. Thanks for the opportunity to speak. Janet Morgan with NYH20. I have many more letters for DRBC regarding hydraulic fracturing. I implore you to vote no on the application for water withdrawal and request additional hearings and public comments to be scheduled around the area that is proposed for water withdrawals.

The catchall phrase of safe drilling needs definition. If injecting 596 toxic chemicals into the ground creating illegal injection wells, if treating untreatable radiated water is causing irreparable health to our population, and if causing cumulative pollution of our rivers, if decimating land values and infirming capabilities, if turning New York State into an industrial state, then the definition of safe drilling is ultimately counter to any rational definition of safe drilling and will not ultimately stand.

The fact that the moratorium on hydraulic fracturing extends to July and the SGIS by the DEC is

1 anticipated, the docket for withdrawal of water is
2 presumptive that fracturing --- that hydraulic
3 fracturing of the shale gas extraction --- the
4 extraction of the gas by hydraulic fracturing would be
5 approved and accepted as a developmental process. The
6 agency would be remiss in approving this docket before
7 the process is even permitted into the State of New
8 York. It is not precluded that what is now considered
9 a highly questionable practice will be approved. And
10 for this docket --- and this docket should at very
11 least be held in abeyance until such time as the
12 process itself is permitted at all.

13 It is this aggressive determination to
14 move shale gas development forward without
15 consideration to highly questionable problems that
16 result in tandem that must be addressed by the DRBC.
17 A rush to allow withdrawal of a quarter million
18 gallons per day is utterly unacceptable on any level
19 at any considered determination by the DRBC. The DRBC
20 must determine that this docket is premature. No
21 person or corporation has the entitled right to
22 willfully engage in any form of activity that has the
23 strong probability of has many hazardous components
24 which can harm or make change, whether small or
25 critical, including water contamination, air

1 contamination, or the quality of life to other
2 individuals' health and welfare.

3 And that's basically all I have to say
4 about it. I think that issue about the water
5 withdrawals should not occur. It's premature, and
6 there should be additional hearings and additional
7 talk about this particular issue. Thank you.

8 CHAIR:

9 Thank you very much. All right. If
10 there's no other public comments on this docket, what
11 I'd like to do now is entertain comments about the
12 issues and potentially motions from the other
13 Commissioners. We heard a variety of things that
14 stood out. Our decision is to delay voting on the
15 docket. So I'd like to entertain those comments and
16 consideration from the other Commissioners on both the
17 public comment period. I want to go last while the
18 docket is being looked at and view all the comments as
19 well as observations about public hearings near the
20 affected region. I'm sorry. We have one more public
21 comment?

22 MS. FITZPATRICK:

23 I'm sorry. My name's Pam Fitzpatrick.
24 And I signed in when I got here. I'm a resident of
25 Bucks County, and I started Water Advocacy back in the

1 '80s with alarm of the last coalition, fracking. And
2 I think the application for XTO really ought to
3 --- I hope you would vote no. It shouldn't even be
4 considered at all, I don't think, until the cumulative
5 impact study is done.

6 I'm very grateful to Cornell University
7 for doing their over 450-page SGIS on hydrofracking
8 alone. I brought you --- now this --- don't worry.
9 It's not frack water. And it's not radioactive. I
10 just put some mustard in this. And it's just a visual
11 because this is what I'm hearing from so many people
12 from around the world, in our country, and in the
13 Delaware River Basin people who have frack water such
14 as Julie Saulkner. She sent a picture yesterday and I
15 tried to get the color right. Nine square mile
16 aquifer permanently polluted forever. Pat Cornelly,
17 she has little kids. Why are their children not as
18 important as our children or your children? I would
19 also refer to Alaska Coalition; I'm very familiar with
20 Exxon, what they have not done in Alaska, what they
21 have not cleaned up. And also with Doctor --- the BP
22 trying to not --- to get out of the responsibility for
23 what they've done.

24 Nobody protected the water. And that's
25 just Pennsylvania. So we need your help. Or Oquagua

1 Creek needs your help. We need you to do what's right
2 morally, to protect the resources that we all depend
3 on for survival, even the gas drillers, the children,
4 the birds, the plants, the air, the water. In these
5 areas, I'm hearing very compelling stories. The
6 children are sick, and the environment is very sick.

7 We need you to do the right thing by now
8 allowing any corporation to purposely drain clean
9 water, our clean water by right, and replace it with
10 toxics that nobody can clean up. It's been documented
11 that they can't clean up all these toxics, especially
12 if it's with radioactivity. And so I'm also thinking
13 about Japan, because it's all connected.

14 ATTORNEY BUSH:

15 That's time.

16 MS. FITZPATRICK:

17 Excuse me?

18 ATTORNEY BUSH:

19 That was three minutes. Thank you.

20 CHAIR:

21 Thank you very much. All right. What
22 time remains, any closing comments, observations,
23 potential motions? All right. One more public
24 comment to be taken.

25 MS. RAWLEY:

1 I guess I misunderstood but I thought
2 that you were going to have Commissioners give their
3 reaction. I guess you're not actually the
4 Commissioners? You're their representatives or comps?
5 You're representatives; right? Because I heard --- I
6 was on the list also to speak, but I don't have
7 anything to add to all the wonderful things that
8 you've heard. But would really like to hear what
9 message you're going to bring back to the people who
10 are going to really make these decisions who, I guess,
11 are the governors that you are representing. And I
12 don't know if you're the general or the representative
13 of the general. I don't know your names or your
14 ranks.

15 CHAIR:

16 I'm the federal Commissioner.

17 MS. RAWLEY:

18 You are the actual federal Commissioner
19 who's going to be voting? Oh, I wish I could talk to
20 you.

21 CHAIR:

22 Well, many thousands of your friends are
23 communicating with me.

24 MS. RAWLEY:

25 Well, I respect your position. I was

1 going to speak as seeing the river of life as we are
2 talking. I'm so concerned about this devaluation.
3 But I wanted to hear from, if I could, what do we
4 have? Six minutes. What are you going to tell your
5 governors? I mean, there were passionate pleas here.
6 And they're the ones that are going to tell you what
7 to do, I guess, or how to vote or how they're going to
8 vote. And will they ever hear any of this or will
9 they ever see any of this? What's going to happen
10 next?

11 CHAIR:

12 Thank you very much. I won't speak for
13 the other Commissioners. As the federal Commissioner,
14 it is my responsibility to help my staff coordinate
15 with all the federal agencies that have an authority
16 and an interest in any particular matter coming before
17 this Commission. Obviously in the case of shale gas
18 drilling, hydrofracking, that is very negative in
19 federal agencies. Have both that interest and some
20 authority on their behalf. And so we do consult with
21 them quite routinely. We actually have areas that are
22 screening out parameters if what we think the
23 cumulative impact study should cover, assuming that at
24 some point, the elected members of the various
25 entities, the ladies and gentlemen of the legislature

1 are going to make funds available to us for just that
2 study. We hope that that will happen and we hope that
3 you communicate with your representatives who help
4 that.

5 MS. RAWLEY:

6 But the people from the four states are
7 going to go back and talk to their governor. I'm from
8 Pennsylvania. I was born in New Jersey and lived in
9 New York. My grandfather worked for DuPont so I came
10 from Delaware. I would really like to know what
11 they're going to tell your governor. You're going to
12 come back to them with some type of report to them
13 about what you heard. What will you say?

14 CHAIR:

15 Well, I won't ask the other
16 Commissioners, but does anyone want to respond to that
17 before we discuss public hearings?

18 MR. PLONSKI:

19 I'll just say that I think we're going to
20 make a motion in a few minutes to clarify this a
21 little bit. But I think after all of this information
22 is gleaned by your --- by my fellow Commissioners
23 here, we're all going to be talking to our governors
24 one way or another about what's happening here. But
25 we're still taking information and I think we're going

1 to hear some more.

2 MS. RAWLEY:

3 My name is Madeline Rawley, currently
4 living in Doylestown, Bucks County. People are very
5 concerned about this.

6 MR. PLONSKI:

7 So, Mr. Chairman, in that spirit, I guess
8 I would like to make a motion and see what happens
9 with the fellow Commissioners here. Move that the
10 comment period be kept open until we have another
11 hearing on this issue some time within the next 30
12 days in the vicinity of Broome County, New York, to
13 give the people there an opportunity to speak one more
14 time about this important issue.

15 MR. EATON:

16 I second the motion.

17 CHAIR:

18 We have a second. All those
19 Commissioners in favor of the motion to hold a hearing
20 within 30 days and allow the public comment period to
21 remain open until that hearing is conducted in Broome
22 County, New York, or in the vicinity of Broome County,
23 New York, the affected area of the water withdrawal,
24 say aye.

25 AYES RESPOND

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CHAIR:

Those opposed? The motion is passed. At this point in time, I thank you all very much for participating. I'm going to bring the public hearing portion to a close. Thank you all.

ATTORNEY BUSH:

And just watch the Commission website for a posting of the hearing date.

* * * * *

HEARING CONCLUDED

* * * * *