



April 9, 2010

Submitted via email to: [Paula.Schmitt@drbc.state.nj.us](mailto:Paula.Schmitt@drbc.state.nj.us)

Ms. Pamela M. Bush  
Secretary  
Delaware River Basin Commission  
P.O. Box 7360  
West Trenton, NJ 08628-0360

Re: Public Comment – Stone Energy Dockets  
Stone Energy Corporation Proposed Surface Water  
Withdrawal and Natural Gas Well Site  
Draft Dockets D-2009-013-1 and D-2009-018-1

Dear Ms. Bush:

Thank you for the opportunity to submit comments for the Stone Energy Dockets referenced above. This request is made on behalf of the Environmental Advisory Council of the City of Easton (“Easton EAC”), City of Easton, City Hall, 1 South Third Street, Easton, PA 18042.

The Easton EAC is an advisory body established by ordinance of the City of Easton pursuant to its authority under Pennsylvania statute. Pennsylvania’s General Local Government Code authorizes municipal governing bodies to establish Environmental Advisory Councils “to advise other local governmental agencies, including, but not limited to...the planning commission... and elected officials, on matters dealing with protection, conservation, management, promotion and use of natural resources, including air, land and water resources” (53 Pa. C.S.A. § 2322) and to “identify environmental problems and recommend plans and programs...for the protection and improvement of the quality of the environment within its territorial limits”. 53 Pa. C.S.A. §2324(a)(1).

The City of Easton is located within the watershed of the special protection waters of the Delaware River, and the Delaware River is the City of Easton’s primary drinking water supply for its population of approximately 26,000 (U.S. Census, 2006

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estimate). As a result, the City has a special interest in protection of the quality of the Delaware River. The activities to be authorized by the proposed docket have the potential to affect the water quality of the Delaware River Special Protection Waters.

We respectfully request that the DRBC comply with the procedural requirements of the National Environmental Policy Act with respect to its review of, and issuance of any permits for, activities relating to Marcellus shale formation natural gas well operations. Specifically, we request that the Commission not act on the Stone Energy dockets, and other dockets relating to such activities, until full programmatic and individual environmental impact statements pursuant to NEPA are conducted, with an environmental report to be prepared by each applicant providing all necessary data and studies, which address individual permit and secondary impacts as well as cumulative, basin-wide programmatic impacts.

While we note the “current” view of the Commission that it is not a federal agency for purposes of NEPA, we respectfully disagree with this position. Indeed, it is contrary to the position previously taken by the Commission. We note that historically the DRBC has prepared environmental impact statements and in several cases the Commission conceded that it was a federal agency for purposes of NEPA. See, e.g., Bucks County Bd. of Commissioners v. Interstate Energy Co., 403 F. Supp. 805, 808 (E.D. Pa. 1975) (DRBC as the designated federal agency to prepare and review an EIS); Borough of Morrisville v. DRBC, 399 F. Supp. 469, 479, n.7 (E.D. Pa. 1975) (DRBC conceded it was a federal agency for purposes of NEPA). In Delaware Water Emergency Group v. Hansler, 536 F.Supp. 26, 36 (E.D. Pa., 1981), while the court expressed some doubt on the matter, it also noted that the DRBC did not dispute that NEPA obligations applied to it, and stated “to the extent that the United States' member of the Commission votes in favor of an application or otherwise acquiesces in accordance with the Compact, such approval might be deemed ‘Federal action’”.

In any event, should it be judicially determined that the Commission is not a federal agency for purposes of NEPA, we request that the Commission exercise its full panoply of regulatory authorities under the Compact and to prepare the functional equivalent of a full programmatic environmental impact statement, with appropriate opportunities for public comments as to scope and substance prior to issuance of a final document and action on the relevant dockets.

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Communications concerning these comments may be directed to the City of Easton Environmental Advisory Council, City Hall, 1 South Third Street, Easton, Pennsylvania, 18042.

We thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Dohe', with a long, sweeping horizontal line extending to the right.

William G. Dohe AIA LEED AP  
Chairman

WD/w  
cc: Dr. Elinor Warner, Easton City Council