



July 13, 2010

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

RE: Delaware River Basin Commission
Executive Director's Determination dated June 14, 2010

Dear Ms. Collier:

I write on behalf of the Marcellus Shale Coalition to express our concern regarding the "*Supplemental Determination of the Executive Director Concerning Natural Gas Extraction Activities in Shale Formations within the Drainage Area of Special Protection Waters*," issued June 14, 2010. The June 14 Determination extends the Delaware River Basin Commission's review and approval authority to activities of a type that the Commission has not traditionally regulated and to issues that do not have a substantial effect on the water resources of the Delaware River Basin.

The Marcellus Shale Coalition is an organization committed to the responsible development of natural gas from the Marcellus Shale geological formation and the enhancement of the region's economy through the development of this clean-burning energy source. The Coalition is fully supportive of the Commission's mission to provide for proper planning, conservation and development of the water resources of the Delaware River Basin and, in that regard, is committed to working cooperatively with the Commission in the development of standards that ensure that shale gas development projects do not substantially impair or conflict with the Commission's comprehensive plan.

The June 14 Supplemental Determination, however, creates a very substantial and unnecessary barrier to the exploration and ultimate development of shale gas resources within the Basin. When coupled with the Commission's May 5, 2010 Resolution, the Supplemental Determination effectively precludes drilling exploratory wells pending development and adoption of new regulations establishing criteria and procedures for obtaining Commission approval and, subsequently, applying for and obtaining such approval. The extension of Commission's review and approval authority to an activity such as the drilling of an exploratory well is novel, unprecedented and unwise.

Exploratory wells are used to assess the scope of a resource available for potential recovery. These wells are limited in number and do not have a substantial effect on the water resources of the Basin – the drilling of these wells does not use a high volume of water, does not generate a significant volume of wastewater, and is subject to stringent

state standards applicable to well drilling and surface disturbance. In no comparable circumstance has the Commission sought to assert its review and approval jurisdiction.

If the review and approval jurisdiction of the Commission were appropriate in this context, then it likewise would be appropriate for the development of a multitude of projects over which the Commission, appropriately, has not sought to assert jurisdiction, such as malls, hotels, restaurants, and residential subdivisions. These projects, like natural gas exploratory wells, typically do not involve substantial use of water or the construction of wastewater treatment facilities, and therefore are not subject to the Commission's review. Indeed, the Commission's regulations specifically classify a wide range of projects outside the Commission's ordinary review authority, even though many of these projects undoubtedly have greater impacts than exploratory wells. These include electric transmission or bulk power system lines and appurtenances; major water transmission lines and appurtenances; and landfill projects subject to state review. Why has the Commission sought to single out the natural gas exploratory program for individualized review when malls, hotels, power and water lines, and landfills are not subject to review?

The Marcellus Shale Coalition is committed to work with the Commission in the development of a regulatory program for the production of natural gas that both is protective of the Basin's water resources in accordance with the Delaware River Basin Compact and allows for timely and responsible development of the valuable gas resources that are believed to underlie the area. Advancement of a limited exploratory well drilling program, however, is compatible with these shared objectives and should be authorized to proceed without delay.

I thank you for your consideration of these issues. My members and I look forward to working cooperatively with you and your staff in the future with respect to the development of Marcellus Shale resources.

Sincerely,



Kathryn Z. Klaber
President and Executive Director

cc: Dr. Katherine Bunting-Howarth
Lt. Col. Thomas J. Tickner
John T. Hines
John Plonski
Peter Freehafer

