



**Delaware River Basin Commission  
Prohibition on Development of Oil & Natural Gas within the Delaware River  
Watershed**

**Testimony of Patrick Henderson, Director of Regulatory Affairs  
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Waymart, PA**

Good afternoon, my name is Patrick Henderson and I serve as the Director of Regulatory Affairs for the Marcellus Shale Coalition (MSC).

The MSC was formed in 2008 and is comprised of nearly 200 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent thousands of Pennsylvania employees – and by extension tens of thousands of Pennsylvania landowners – who are committed to the safe development, transportation and utilization of domestic natural gas.

To date, over 10,000 unconventional natural gas wells have been drilled in the Marcellus, Utica and other shale formations throughout Pennsylvania. This development has led to significant benefits for the citizens of not only Pennsylvania, but indeed our nation – benefits such as cleaner air, reduced reliance on foreign energy, lower energy prices for all citizens, jobs for tens of thousands of our fellow citizens, new tax revenues for strained government coffers, and tens of billions of dollars in induced economic activity in our local communities.

To be clear, the MSC, its member companies, and the thousands of Pennsylvanians who work for these companies support responsible, safe development of natural gas within the Delaware River Basin. To prohibit the development of this critical energy resource, as the Commission seeks to do, defies common sense, sound science, responsible policymaking, and the corporate charter and authority of the Commission. It is simply wrong, not authorized, and this rulemaking ought not be adopted.

**Lack of a Deliberative Process**

The intention of any public comment and hearing process is, presumably, to solicit and thoughtfully consider input from a wide array of stakeholders on a proposed policy, and to withhold final judgment until all of the facts are in. Yet, that is not what is happening here. As the Commission staff goes through the motions of soliciting input, it is clear that a majority of Commissioners have already made up their political minds on this matter. Indeed, while the Commission staff took great pains in announcing these hearings and public comment period to stress that no final decision or action has yet been taken, on

September 13<sup>th</sup> a majority of the Commissioners issued a press release, congratulating themselves on banning natural gas development within the watershed and depriving their own citizens of their private property rights.

The Commission's inaction over the past eight years, which it seeks to permanently adopt through this rulemaking, has inflicted significant harm upon the Commonwealth and its citizens. Hundreds of millions of dollars of lease and royalty payments to Pennsylvania landowners has been lost, and potentially billions of dollars of private capital investment has been diverted out of the Commonwealth. The economic and jobs damage inflicted by the Commission is difficult to fully quantify or comprehend.

### **Guided by Science, Facts and the Law**

Moreover, this Commission has failed in its most fundamental responsibility: to allow reasoned science and the interests of the citizens it purports to represent to guide its actions and decisions. The Commission unlawfully seeks to take, permanently, the property owned by landowners in Pennsylvania and neighboring states without due process or just compensation. It substitutes the political interests of elected politicians for the rights of the citizens they represent by asserting, falsely and without justification, that natural gas cannot be safely developed within the watershed. Meanwhile, other agencies, such as the Pennsylvania Department of Environmental Protection, U.S. Environmental Protection Agency, and Susquehanna River Basin Commission (SRBC) have actively engaged with industry stakeholders, conducting studies, gathering data, and crafting new and modern rules within which shale gas development can operate.

So what would you find if you examined the facts of natural gas development in Pennsylvania in 2018? You would find a highly compliant industry – over 95%, and most likely higher once inaccurate and redundant violations are accounted for. You would find an industry that has been a partner in working to enact, adopt and implement the most stringent operating requirements in the nation. You would find an industry that voluntarily stopped taking wastewater to discharge treatment systems, and has focused on treating and recycling water. And you would find an industry that has contributed hundreds of millions of dollars to study, monitor, enhance and safeguard the water resources of Pennsylvania.

And what do the water resources of Pennsylvania look like a decade into the energy revolution? Clean. Abundant. Well-protected. And successfully meeting their multiple uses – for critical needs such as agriculture, safe drinking water, and aquatic life – with no degradation.

But don't take my word for it. You need to look no further than your sister river basin agency right here in Pennsylvania, the SRBC. As recently as October, 2017, the SRBC released its annual monitoring report examining the impact of shale gas development on its watershed and again confirmed that the Commission has “not detected discernible impacts” on the basin's water resources from shale gas development – despite thousands of



active wells – over 5,300 – within the SRBC watershed. The SRBC has utilized a comprehensive water monitoring network of over 50 strategically-placed stations that have been in place for nearly eight years. In other words, the SRBC has relied upon actual science to demonstrate that natural gas development can be done safely – because it already is. It defies logic for certain DRBC Commission members to determine natural gas development cannot be done safely in one jurisdiction, yet agree that it can occur in another. The height of arrogance is to claim that you are being guided by science and facts, and yet allow yourself to be guided by anything but.

This indifference and inaction has real-world consequences. New York's refusal to allow natural gas development, and efforts to stymie critical pipeline infrastructure, has led to New York and New England residents paying some of the highest natural gas prices in the world; to imports of natural gas from Russia – rather than Pennsylvania – and during recent cold spells, to reliance on coal and fuel oil for electric generation. This is akin to heating your home by burning borrowed dollar bills, all while keeping the chimney flue closed.

## **Conclusion**

When Pennsylvania's elected General Assembly voted to adopt the Compact in July, 1961, they could not possibly have envisioned this day: when the rights of the citizens of Pennsylvania, and the authority of the Commonwealth, would be subverted in furtherance of the political objectives of a select few. Under this resolution, the rights inherent to the citizens of Pennsylvania will now depend on artificially-created political boundaries.

Ironically, one of the core principles of the Compact contained in that 1961 act of the Pennsylvania General Assembly states that its purpose is to "*apply the principle of equal and uniform treatment of all water users...without regard for established political boundaries.*" The Commission's proposed action is anything but equal or uniform. It is a betrayal of your public trust. Its ramifications cannot be overstated, and its outcome cannot be allowed to prevail.

