

November 9, 2011

By Electronic Mail

Richard A. Cairo
General Counsel, Susquehanna River Basin Commission
1721 N. Front Street, Harrisburg, PA 17102-2391

Dear Mr. Cairo,

Stewards of the Lower Susquehanna, Inc. and the Lower Susquehanna RIVERKEEPER® submit the following comments on behalf of the 44 undersigned organizations on the proposed rulemaking by the Susquehanna River Basin Commission that would provide for changes to 18 CFR Part 806, as issued on June 23, 2011.

At the outset, we note the Commission's need to continuously improve programs intended to safeguard waters of the Basin. However, it is critical to comprehensively assess proposals, such as the instant rulemaking, which are broad in application and concern activities that pose a high degree of risk to human and natural communities. We believe that the Commission has an obligation as water managers to fully disclose the science informing their decision-making to the public, and an obligation to conduct a comprehensive study of the potential impacts to the water resources of the Basin that result from implementation of these rules. These steps must be taken prior to issuance of a final rule.

In addition, the proposed rulemaking should better articulate a connection between the stated rule's goals and its individual provisions. In particular, the final rule should better explain the role of the Approval By Rule (ABR) process as a secondary, record-keeping mechanism for cases of consumptive water use that have already been subjected to normal docket approval and environmental analyses, pursuant to existing water withdrawal rules.

Importantly, the Commission should delay implementing sections of the rule concerning the authorization of transfers of wastewater generated by hydraulic fracturing. The Commission has deferred to the agencies of signatory states in regulating these transfers and managing related water quality concerns. However, no signatory state currently possesses clear, proven regulatory mechanisms designed specifically to address the risks associated with hydraulic fracturing and the transfer and disposal of highly-polluting wastewater.

It is incumbent upon the Commission to ensure that transport, storage, and re-use of fracturing wastewater is handled in a manner guaranteed to be "isolated from waters of the basin," as conditioned by the proposed rule. Although the avowed purpose of extending the ABR process to wastewater disposal is to track the movement of wastewater across the Basin—a laudable goal—the Commission should not authorize new wastewater rules until signatory states implement and prove the efficacy of their wastewater controls and processes to prevent pollution.

The Commission should allow the evolving science and informed decision-making guide the regulation of this highly controversial industrial practice. Two signatory states, New York and Maryland, are independently conducting studies of the risks unconventional shale gas development poses to water resources because they believe the risks merit

extensive scientific assessment **prior** to allowing this type of development.

In light of Pennsylvania's failure to perform such studies, and with the prospect that present and future unconventional shale gas development there, as well as foreseeable future development in other signatory states, affects the shared water resources of the Basin across political boundaries, the Commission should, at the very least, conduct a Basin-wide study to thoroughly understand the impacts to water supplies, water quality, associated natural communities, and other aspects arising from unconventional shale gas development.

The instant rulemaking would authorize a broad range of activities that are interstate in nature and that have a major effect on water resources and water resources management. For this reason and the reasons noted above the Commission should exercise its Compact powers to: (1) disclose the science behind this rulemaking; (2) conduct a Basin-wide study analyzing the impacts of unconventional shale gas development on water resources and water resources management; and (3) delay implementing parts of the proposed rule concerning transfers of hydraulic fracturing wastewater until clear regulatory mechanisms are in place in all signatory states that ensure "isolation from waters of the Basin."

We believe the Commission not only possesses the authority to perform these requests, but has an obligation to fully assess—with sound science and in partnership with the public—the threat unconventional shale gas development poses. We respectfully request the Commission perform the actions noted above prior to finalizing this or any other rulemaking concerning natural gas development.

Respectfully Submitted,

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