

August 23, 2011

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

Dear Mr. Cairo,

On behalf of the 40 undersigned organizations and the communities we represent, we respectfully submit comments on proposed rulemaking by the Susquehanna River Basin Commission that would provide for changes to 18 CFR Part 806, as issued on June 23, 2011.

We recognize that the SRBC has limited resources to thoroughly review an increasing number of applications for water withdrawal and use by the natural gas industry. However, the streamlining and fast-tracking of applications would add risk to the environmental quality of the Basin and the well-being of its human and natural communities.

As the Commission is surely aware, American Rivers named the Susquehanna River the most endangered river in the United States in 2011, citing the rush to develop the enormous natural gas reserves in the region without considering the risk to clean water, aquatic life, and human health. Because the Commission's proposed rulemaking would mirror this trend, it in effect runs counter to SRBC's mandate to ensure water supplies and water quality. Our comments on the rulemaking focus on two key issues, as follows.

**Extension of the Approval By Rule (ABR) rather than standard docket approval process** to any type of hydrocarbon development projects (including large impoundments) and to inter-basin diversions of natural gas drilling flowback water for re-use in hydraulic fracturing operations.

The ABR process is generally used for projects that have a lower impact on water quantity and quality. This premise should not be assumed to apply to all hydrocarbon development. Current methods of natural gas extraction and production are more water-intensive and polluting than ever before, and different types of energy development and industrial practices can have long-lasting impacts. As indicated in the SRBC's 2010 *State of the Susquehanna* report, the Basin remains severely impaired by mine drainage from past mineral extraction.

By broadening the scope of the ABR process, the Commission would potentially be giving hydrocarbon development priority over the many other public, ecological, and recreational purposes that it is mandated to uphold. The Commission should instead seek to protect the Basin by encouraging projects that are low-risk and non-polluting. Water-intensive projects should receive the greatest scrutiny, for which the ABR process does not allow.

The transfer of water from one basin to another encourages and institutionalizes poor water management practices. This practice essentially "robs Peter to pay Paul" when, to make up for over-allocation in one basin, another basin is deprived of return flow. It should

be noted that because of these problems, the Delaware River Basin Commission has a strict review and approval process for out-of-basin transfers.

There are particular concerns with regard to the transfer of flowback water, which contains toxic chemicals introduced and elements mobilized during hydraulic fracturing that can harm human health, wildlife, and aquatic species (including but not limited to benzene, toluene, xylene, naturally occurring radioactive materials, salts, metals, mercury, lead, and arsenic).

The inter-basin transfer and re-use of flowback—if not treated to fully remove these substances—could pose a significant risk to the water quality of both the Susquehanna Basin and other water resources from spills, leaks, and migration into surface and underground water supplies. Similar problems occur during the handling and transport of flowback water from one well site to another. It is therefore inappropriate for the SRBC to rely on yet-to-be adopted regulatory programs of member states with regard to flowback treatment, storage, and transport.

Importantly, by removing hydrocarbon development and inter-basin diversions of flowback from the standard docket process, the Commission would greatly reduce public notification and scrutiny. Landowners and residents living in and relying on the waters of the Basin must be given the opportunity to understand and provide input on natural gas projects involving extensive infrastructure and changes to water quality and quantity.

**15-year renewal terms for all projects subject to the ABR process.** The proposed rulemaking asserts that review of natural gas project applications every four years is no longer necessary because the Commission has gained sufficient knowledge and experience to manage the gas industry and protect the Basin.

However, natural gas industry extraction and production is not static, with target formations and technologies frequently changing. Current shale gas development relies on far more intensive industrial practices—and therefore poses a greater risk to water availability and quality—than in the past. The recent drought in Pennsylvania and the need to halt water withdrawals by gas extraction operations is just one concrete example of how rapid changes in conditions cannot always be anticipated.

In addition, the oil and gas regulations of the Basin Compact states are outdated and in great need of revision to address these new conditions with regard to relevant issues such as setbacks from water resources, chemical use, and surface impacts. In 2010 alone, drilling in the Marcellus Shale resulted in over 1,200 violations of existing environmental rules in Pennsylvania, including with regard to key SRBC concerns such as stormwater runoff and sedimentation, waste discharge, leaks, and spills.

Finally, the Commission itself has been reviewing and approving applications for gas extraction from the Marcellus Shale only since 2008 and has not yet conducted an environmental analysis of the cumulative impacts of gas development on the Basin. The potential for gas extraction activities to result in large-scale consumptive use—through

both hydraulic fracturing operations and transfers out of the Basin—should be evaluated on a cumulative level.

With these factors in mind, the Commission should retain the four-year duration of ABR terms and ensure that natural gas companies minimize consumption and pollution of the Basin's waters today and into the future.

Thank you for your consideration of these comments.

Sincerely,

Advocates for Cherry Valley, Inc.: Lynn Marsh, President  
Allegheny Defense Project: Ryan Talbott, Executive Director  
American Rivers: Jessie Thomas-Blate, Associate Director of River Protection  
Brewery Ommegang: Larry Bennett  
Catskill Citizens for Safe Energy: Jill Weiner  
Chenango Community Action for Renewable Energy: Erin Heaton  
Citizens Campaign for the Environment: Sarah Eckel, Legislative & Policy Director  
Citizens For Water: Joe Levine  
Clean Water Action: Myron Arnowitz, Pennsylvania State Director  
Concerned Harding Area Residents: Steve Simko, Chairman  
Crumhorn Lake Association: Lori Solensten  
Damascus Citizens for Sustainability: Barbara Arrindell, Director  
Delaware Riverkeeper Network: Tracy Carluccio, Deputy Director  
Earthjustice: Deborah Goldberg, Managing Attorney, Northeast office  
Earthworks' Oil & Gas Accountability Project: Nadia Steinzor, Marcellus Regional Organizer  
Gas Drilling Awareness for Cortland County: Sheila Cohen, Outreach Coordinator  
Great Bend Borough (Councillor) and Hallstead Great Bend Joint Sewer Authority  
(Director): Bret Jennings  
Juniata Valley Audubon: Stan Kotala, M.D., Conservation Chair  
League of Women Voters of Maryland: Nancy Soreng, President  
League of Women Voters of New York State: Betsey Swan, President  
League of Women Voters of Pennsylvania: Olivia Thorne, President  
Middlefield Neighbors: Sarah White  
Nature Abounds: Melinda Hughes-Wert, President  
Northeastern Organic Farming Association-New York: Lea Kone, Assistant Director  
NYH2O: Buck Moorehead  
Otsego 2000, Inc.: Nicole A. Dillingham, President of the Board of Directors  
Penn Environment: Erika Staaf, Clean Water Advocate  
Pennsylvania Forest Coalition: Richard Martin, Coordinator  
Protecting Our Waters: Iris Marie Bloom, Director  
Residents United for Sullivan County: John A. Trallo, Sr., Chairman  
Responsible Drilling Alliance: Ralph Kisberg, Board President  
Roseboom Owners Awareness Response Against Fracking: Allegra Schechter, Founder  
Sanford/Oquaga Area Concerned Citizens: Kathy Klopchin

Schoharie Valley Watch: Bob Nied, Co-Director  
Sierra Club Pennsylvania Chapter: Thomas Au, Conservation Chair  
Sullivan Area Citizens for Responsible Energy Development: Larysa Dyrzka, Co-founder  
Sustainable Otsego: Adrian Kuzminski, Moderator  
Tioga Peace and Justice: Leonard B. Bjorkman, Convener  
United for Action: Ling Tsou  
Upper Unadilla Valley Association: Lorraine McNulty, President