

November 8, 2021

Commissioners
Executive Director Steve Tambini
Delaware River Basin Commission
P.O. Box 7360
25 Cosey Road
West Trenton, NJ 08628

Re: Public Comment Process Regarding the DRBC's Notice of Proposed Rulemaking & Public Hearing: Importations of Water Into and Exportations of Water From the Delaware River Basin; Discharges of Wastewater from High Volume Hydraulic Fracturing and Related Activities

Dear Commissioners and Director Tambini,

We, the undersigned organizations, request an extension to 180 days for the public comment period for the Commission's Draft Regulations referenced above and published on October 28, and we request a substantial broadening of the opportunities for public input, including additional hearings and easier means for submitting comments.

The proposed regulations have been highly anticipated by the public since the Commission adopted a ban on high volume hydraulic fracturing (fracking) throughout the Delaware River Watershed in February and since the resolution passed simultaneously calling for new draft regulations to address the import of wastewater produced by fracking and the export of water out of the watershed for fracking. The up to 17 million people who rely on the Delaware River for drinking water every day and the communities that make up the four states of the Watershed will be directly impacted by these proposed regulations and require a fair, equitable, and easy-to-access public input process.

Over the last 11 years, over 100,000 people have spoken to the Commission regarding natural gas development. It is clear that people consider these regulations to be of utmost importance, defining the future of the Delaware River Watershed and the protection of its essential water resources.

This high level of public input shows the desire and commitment of people to actively participate in the regulatory decision-making process in a substantive way. Much of the proposed regulations are technical and complex and will require expert input and careful examination. The Commission's public comment schedule does not provide sufficient time or opportunity to ensure robust and thorough public participation.

The comment period starts and continues through November and December, when holidays, long-awaited travel, and family commitments are a priority for many families. The Public

Hearings are scheduled during the December holiday season and coincide with the final examination period at many colleges and universities, depriving many people of the ability to participate whom otherwise would want to, which is unfair and must be changed. The comment period is only 90 days when it should be double that, considering the holidays, the complexity of the regulations, and the burden of COVID restrictions and virtual schooling adding to the stresses of our communities. We request the following changes to the Commission's public participation process:

- The public comment period must be a minimum of 180 days to allow for broad and substantive public participation; 90 days is wholly inadequate, especially considering that two holiday months occur in the midst of this period. The extension of the comment period into 2022 will provide the necessary time not conflicting with the holidays.
- At least 4 to 6 days of hearings, not during December, must be provided. The four hearings currently set, two on each day, are not nearly enough options for people to attend. Considering these hearings are virtual and require much less capacity to arrange than in-person hearings, there is no good reason to deny the public the opportunity to speak to the Commission on several occasions over the first months of 2022. Verbal testimony is essential to the input process and, for many, the only practical means of participation available to them.
- It is essential that more avenues for submitting written comments, beyond the web form, be provided, including via email. As proposed, written public comment can only be submitted through the DRBC's website portal and requires filling out a form. The Commission only allows other means to be used if it is approved by a formal request, as stated by DRBC: "Written comments submitted by other methods will not be accepted unless an express exception has been granted based on lack of access to the web-based system. Requests for exceptions may be addressed to: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628." Requiring that an individual seek prior approval through an application process is an unfair roadblock that is unduly cumbersome and will restrict the use of other means of submission. It is essential that the Commission provide more avenues for submission without a person having to jump through hoops. We consider it of great importance that other means of submittal be allowed so that the public may freely and easily give their input.

We request that alternative methods be provided including:

- An email address that can be directly accessed by the public. Email is a convenient way for a person to submit a comment, with no cumbersome forms to fill out, making submitting a written comment quick and easy.

- A fax number. People use fax machines through their phone or computer as a convenient method for submitting documents.

- A mailing address for using the postal mail service or courier service and hand delivery. Not everyone has access to a computer or has an email account. Those who cannot afford to own or cannot gain access to a computer or who do not live where internet access is available or where internet connection is limited are being unfairly excluded from the written comment process. People lacking access to a web-based system will not know about the draft regulations, the comment period, that they need an exception, or how to request one. The job of notifying people is typically left to advocacy groups who are currently challenged to do the kind of in-person organizing they have not been able to do during the pandemic. If the Commission will not make an effort to reach hard-to-reach communities in the watershed, many of which are likely to be directly impacted by the proposed wastewater imports and water exports, then it cannot say that it has conducted a proper, inclusive public participation process. This would be a good opportunity for the Commission to correct the longstanding environmental injustice of failing to ensure that all communities in the watershed are equally well-informed. Submission through the regular mail is readily available in communities and is inexpensive. For some people, it is the only way they will be able to submit written comments. It is essential that equal access be afforded to all members of the public. Additionally, we ask that you take into consideration the fact that the federal government has allowed the USPS to slow its services and allow comments postmarked before the end of the comment period to count regardless of when they are received.

- There is no mention of providing access for those who speak languages other than English. The most prevalent second language spoken in the region is Spanish. We request, at a minimum, the draft regulations, the proposed rulemaking, supporting documents and all other materials provided at https://www.nj.gov/drbc/meetings/proposed/notice_import-export-rules.html be made available in Spanish and that Spanish translation be provided at the Commission's Public Hearings on the draft gas regulations.

We request these changes in the public comment process to ensure that all people who want to take part can do so and that the process is assured to be just and equitable for all.

Thank you for your consideration of our input to the public participation process regarding the Commission's draft natural gas development regulations.

In alphabetical order:

Berks Gas Truth

Catskill Mountainkeeper

Clean Water Action

Damascus Citizens for Sustainability

Delaware Riverkeeper Network

Food & Water Watch

Natural Resources Defense Council