



September 18, 2017

Governor John Carney
Tatnall Building
150 Martin Luther King Jr Blvd South
Dover, DE 19901

Governor Andrew Cuomo
NYS State Capitol Building
Albany, NY 12224

Governor Tom Wolf
508 Main Capitol Building
Harrisburg, PA 17120

Dear Governors Carney, Cuomo and Wolf,

I know you were disappointed that your DRBC resolution regarding fracking was not hailed by the environmental community as a protective ban we fully supported and endorsed. But we are likewise disappointed that you did not subject this resolution to public comment before voting on, and passing it. Had you done so, as we asked, you would have understood the tremendous concerns regarding this proposal, and you could have made it right before passing it.

Since 2009, other than a few specifically excepted exploratory wells, the DRBC has prohibited drilling and fracking for shale in our watershed, has prohibited the out of basin transfer of Delaware River watershed water to use in fracking where it is allowed, and prohibited the storage and discharge of frack wastewater in our watershed. This prohibition began with the 2009 Executive Directors Determination (EDD) that appropriately and broadly defined the industrial process of drilling and fracturing for gas in shale. The 2009 EDD described and defined natural gas extraction from shale as including:

“the construction of a well pad and associated roadways at or about surface elevations, the drilling of a well bore to depths of as much as 6000 feet or more, the withdrawal and transport of surface or ground water, the injection of the water and chemical fracturing mixtures into the wells to release the trapped gas, the recovery and storage of recovered fracturing fluid, water and associated leached constituents extracted with the gas, the storage and potentially the reuse of the recovered wastewater and chemicals and the eventual disposal of the water and chemicals.”

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The 2010 Commissioners resolution was intended to “...clarify the commission's intentions with respect to the development of new regulations and consideration of pending applications for projects associated with natural gas development”. This resolution directed staff “to develop draft regulations on well pads in the shales for notice and comment rulemaking”, and to “postpone the Commission’s consideration of well pad dockets until regulations are adopted.” The resolution also stated it would “move forward with water withdrawal dockets in due course.”

And so while this 2010 resolution recognized that water withdrawal regulations of the DRBC existed and were an appropriate separate vehicle for addressing water withdrawal operations associated with natural gas development, it did not redefine, in any way, the 2009 definition regarding natural gas development. The 2010 resolution was simply seeking to clarify the process going forward, not to change the fact that DRBC was seeking to regulate the entire process of natural gas development including, but not limited to, fracking gas from shale.

And in practice, evidencing DRBC’s intent to use the broad 2009 definition when discussing regulating, to any degree, development of natural gas from shale, DRBC has not allowed well pad development, fracking, nor frack wastewater discharges or disposal in our watershed. It has also not allowed for out of basin transfers for use in fracking in other watersheds.

And so, in reality and practice, the DRBC’s defacto moratorium on fracking for gas was intended to include, and in fact did include, the entire practice of drilling and fracking for shale, including withdrawals of water and the discharge of frack wastewater, as well as all “activities” leading up to, following and in between. We have been, and are, entirely protected from drilling and fracking for shale in our watershed at this moment.

The resolution passed on September 13 puts the DRBC on a path that could change all of this.

The September 13 resolution instructs DRBC staff to issue regulations for public comment that include:

- ⇒ “prohibitions related to the production of natural gas using horizontal directional drilling and fracking” ... not throughout the watershed necessarily, perhaps only in just some portions
- and at the same time DRBC staff are instructed to issue regulations for comment that will
 - ⇒ provide for the storage, treatment and disposal and/or discharge of frack wastewater in the basin, and
 - ⇒ regulation of interbasin transfers of water and wastewater for supporting drilling and fracking operations where they are permitted.
 - ⇒ Other proposed revisions to DRBC’s regulations are also invited, without any indication as to what is intended.

And so, in exchange for some level of prohibition on fracking and drilling sites (with the extent of the prohibition undefined and potentially very limited) we are supposed to accept frack wastewater storage and disposal in our watershed, and that our clean water resources be allowed to be taken out of basin to support drilling and fracking elsewhere, subjecting other watersheds and communities to this dangerous industrial operation.

We don't want any aspect of the shale gas extraction process in our watershed; every aspect alone, together and cumulatively across multiple drill sites, whether in the Marcellus, Utica or other shales, is devastating. We also don't want our river to be used to enable other communities to be devastated with industrial drilling and fracking operations. We don't want drilling and fracking in any watershed. Drilling anywhere is immoral, and it also brings devastating impacts for all of us – including in the form of advancing climate change and pipeline infrastructure that cuts through more and more communities, including in our watershed, every day.

So this is why we cannot consider you to be heroes to the cause when it comes to your September 13, 2017 resolution. This is why we do not support your resolution. This is what members of the public expressed to you at your September 13 public meeting. This is why we urge you to commit to a complete and total ban on every aspect of shale gas development in our watershed, everywhere in our watershed.

We hope this clarification is helpful and that you will consider modifying your resolution to make clear that you want the DRBC staff to issue regulations for notice and comment that ban the entire process of extracting gas from shale within the boundaries of our watershed, including land clearing for well pads; drilling and fracking for gas; treatment, storage, disposal and/or discharge of waste water; water withdrawals (fresh or otherwise) for use in fracking anywhere; and all other related activities undertaken to support the gas extraction process.

With regards,

A handwritten signature in blue ink that reads "Maya K. van Rossum".

Maya K. van Rossum
the Delaware Riverkeeper

Cc:
Shawn Garvin
Basil Seggos
Patrick McDonnell
Kara Coates
Kenneth Kosinski