

PENNSYLVANIA CAMPAIGN FOR CLEAN WATER

www.pacleanwatercampaign.org

215-545-0250

November 20, 2008

John Hanger
Acting Secretary
Department of Environmental Protection
Rachel Carson State Office Building
Harrisburg, PA 17105

Dear Secretary Hanger:

Thank you for convening the briefing for the environmental community by DEP officials, the Susquehanna & Delaware River Basin Commissions on October 9th. We appreciated the opportunity to hear what the agencies are doing to address the challenges presented by the many new gas drilling projects proposed and underway in the Marcellus shale fields.

We understand that natural gas drilling could potentially be a major new source of revenue and business development in Pennsylvania. At the same time, however, the undersigned organizations are concerned that this drilling must be done in a manner that does not damage our state's natural resources, particularly our water resources and the plants and animals that they support. If the rush to drill is allowed to go forward without adequate permit conditions and oversight, it could irreparably and unnecessarily harm habitat and water sources, de-watering streams, damaging water and air quality, fragmenting forests and impacting threatened and endangered species in some of the most pristine parts of our state.

We commend the Department and the River Basin Commissions on proactively taking steps this summer to clarify permit review and approval requirements for natural gas drilling necessary to protect the Commonwealth's water resources. We encourage the Department and Commissions to follow up on those efforts by ensuring that drilling is done in a responsible manner, and not allowing demands from the gas companies or drilling companies or elected officials to undermine the protections afforded our water resources under the Clean Water Act and Clean Streams Law.

Among the specific areas of concern for us are the following:

- **Multiple impacts from drilling projects should be considered.** Drilling projects have the potential to cause multiple impacts on our environment, and all these impacts should be considered. Water needs for the drilling; treatment and discharge of back flows; habitat destruction and stormwater runoff from the drill site, road construction and pipeline construction; air emissions from gas drilling, development and production and particularly from dramatically increased truck traffic...all these impacts should be considered by the agencies in their permitting process.
- **Cumulative impact from multiple drilling operations should be considered.** The projections for the number of possible drilling projects are immense. In considering permits for water withdrawals or determining assimilative capacity of streams, air emissions from truck traffic, or loss of forest cover and habitat, agencies must look not just at the impact of each drilling project on its own, but also assess the cumulative impact to our environment from the multiple projects that are underway, have been proposed and that are expected over time. While any one project might do minimal damage to a stream, the cumulative impact from a large number of projects could cause significant damage.

In addition, we encourage the Department to plan for “build out” status. What will be the cumulative impacts of gas well development in the state at “build out”? How will the state plan for the changes that Marcellus shale development will bring so that the environmental resources upon which we all rely are protected now and for the future? We are concerned that there is no planning mechanism in place to assess and plan for “build out” of natural gas infrastructure and no apparent effort to develop such a statewide plan.

- **Water withdrawals cannot be allowed to de-water streams or aquifers.** We appreciate the strong position the state and river basin commissions have taken requiring all projects to secure permits for water withdrawals. We encourage the agencies to take the time needed to ensure full review of permit requests and not to allow pressure from applicants to short circuit any necessary technical analysis. The Department must not allow water withdrawals to degrade streams or to de-water aquifers on which the public and our streams depend for their water supply.
- **Frac water must be treated, not just diluted, before it is discharged to our waterways.** Constituents of the wastewater produced by the hydrofracing process pose significant disposal issues that the state’s current infrastructure is not equipped to handle. Contaminants, total dissolved solids (TDS), pH, and other wastewater properties all need effective treatment if our water resources are to be safe. The high levels of chlorides alone in the flow backs could use up the assimilative

capacity for entire watersheds in our state if untreated discharges were simply allowed to be returned to our streams. In addition, dilution is not adequate to treat the chemicals added to the water by the drilling companies.

We appreciate that the only available treatment plants are in western Pennsylvania, and are not convenient to the proposed drill sites in northeast or northcentral Pennsylvania. However, this is not a sufficient reason to allow contaminated water to be discharged to municipal wastewater treatment plants which are not able to treat the water effectively and which then would be liable for proper disposal of this water.

The recent incident of TDS overloading in the Monongahela River, which resulted in the Department advising 325,000 people to use bottled water, is clear and undeniable testimony that the state's sewage facilities cannot handle the wastewater currently being produced by gas drilling and development. While not the only cause of the recent TDS overload, gas and oil drilling wastewater has been identified by the Department as a significant contributor, leading the state to order a mandatory reduction in the amount of gas well wastewater the sewage treatment facilities can take. This situation begs the question, "How will the wastewater from the current and planned expansion of natural gas well development be safely treated and disposed and who will bear this cost?" Certainly, the cost to the public, to water suppliers, and municipal wastewater facilities has been great in the Monongahela River region. This question must be adequately and fully answered before the industry moves forward with well development, or the story of the Mon is doomed to be repeated throughout the Commonwealth.

- **Some areas should be off limits for wells and pipelines.** Some places should simply be off-limits for drilling, including sensitive headwaters, floodplains and riparian areas, wetlands, exceptional value and high quality streams and areas home to threatened and endangered species. Our most pristine watersheds and most sensitive lands should not be allowed to be degraded. Areas nominated as Critical Water Planning Areas under Act 220 where there is already concern about the current or future adequacy of water supplies should also be off-limits for water withdrawals. We also question whether existing general setback requirements for wells, streams, and wetlands are sufficient to protect those resources. The Department should evaluate whether larger setbacks are necessary, particularly with the amount of drilling that is currently and anticipated to be permitted.

- **Stormwater Runoff must be addressed.** We appreciate that the state has adopted a General Permit (PADEP ESCGP-1) for stormwater management of oil and gas well construction with well pads 5 acres and greater and we encourage rigorous

tracking and enforcement under this permitting system. However, we are concerned that sites under this threshold will become significant sources of nonpoint source pollution due to the changed land use that accompanies gas well development. We encourage the state to meet nonpoint source pollution control goals through employment of a variety of mechanisms (such as supporting municipal stormwater management and Act 167 goals) to prevent the degradation of our watersheds by the land use conversion that will accompany gas drilling and the appurtenant infrastructure (such as pipelines and compressor stations). The Department should also consider requiring a stormwater permit for oil and gas activities 1-5 acres in size, so that stormwater permitting requirements are consistent with other construction activities.

- **Public accountability for chemicals used.** Several newspaper articles have been published seeming to indicate that the chemicals used by the industry are proprietary. We appreciate Department staff clarifying this point at the October 9th meeting by stating the chemicals are not proprietary, only the formula used. Public misinformation regarding this point remains, however. We assume the Department agrees with our belief that the public has the right to know what chemicals the industry is putting into water and putting into the ground, particularly as 40% of that water will come back out. Information on these chemicals should be available in the DEP files as part of any file review done by the public, not only in data sheets at well pads. In addition, DEP should place a list of chemicals used in oil and gas operations in a conspicuous place on its website.

- **Erosion and sedimentation control measures must be inspected.** Inspection of sites after erosion and sedimentation controls are constructed is critical to ensuring that E&S plans and permits are being followed and erosion and sediment runoff from active operations is minimized. Given staff limitations, we recognize the challenges DEP has in inspecting well sites to determine whether the sites meet the permit requirements. But even with these limitations, each well site must be inspected regularly for environmental compliance. DEP should consider requiring DEP inspection and approval of E&S controls “as built” before allowing an operator to proceed with well drilling. This would ensure greater protection for the Commonwealth’s rivers and streams, while providing incentive for the industry to install proper E&S controls from the outset.

- **DEP needs sufficient staff to process and enforce permits.** We encourage the Department to hire the staff needed to process these new applications and to ensure that permits are complied with once they are issued, and we support any and all efforts the Department is making to increase staffing for this program. We

believe that these new positions should be exempted from the hiring freeze recently ordered by the Governor, in light of the dramatic expansion of drilling requests to be processed. We also urge the Department to ensure that adequate staff is available particularly in the Ohio Basin, where there is no River Basin Commission to support DEP's permitting review and activities.

We appreciate the opportunity to share our concerns and would be happy to meet regularly with agency staff to discuss our issues and proposals. Please have your staff contact Robert Wendelgass at bwendelgass@cleanwater.org or 215-545-0250 with any questions or to schedule additional meetings.

Sincerely,

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