

November 7, 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 a substantial expansion of opportunities for public comment on the Delaware River Basin Commission (DRBC) Draft Regulations referenced above and published on October 28, regarding fracking related activities in the Delaware River Basin, a source of drinking water for millions of people in New York, New Jersey, Delaware, and Pennsylvania.

We acknowledge the extension of the public comment period by 30 days to February 28 from January 28 in response to our earlier request but we request a substantial broadening of the opportunities for public input, including newly scheduled hearings and additional means for submitting comments.

Anything less than a substantial expansion of public input opportunities is an abdication of the DRBC's legal and moral obligations and will stymie public input concerning a major question concerning public health, climate change, our communities, and the environment.

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, more than 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 process does not provide sufficient opportunity to ensure robust, fair, 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 Hearings also coincide with the final examination period at many colleges and universities, depriving many people of the ability to participate whom otherwise would want to. Considering the holidays, the complexity of the regulations, and the burden of COVID restrictions and virtual schooling, which add to the stresses of our communities, scheduling the only Hearings during the holiday season is unjust and must be changed.

Additionally, many people who will be affected by the decisions made regarding these regulations are effectively being shut out of the process because they do not have access to computers or other devices that are required to participate in the Hearings and the written comment process. This situation is unjust and flies in the face of a fair and democratic system. Many of those who will be most affected, such as people who obtain their drinking water from water supply sources in densely populated areas that could be subject to contamination from frack wastewater processing facilities, are already overburdened by environmental injustices. It is intolerable that people of color and low income communities in the Delaware River Watershed are once again being short-shrifted because there is no readily available access to a written comment system unless you own or have access to a computer. In fact, unless you have access to electronic devices, you wouldn't even know about the public hearings or the written comment opportunity.

We request the following changes to the Commission's public participation process:

- At least 4 to 6 separate days of additional hearings with two time slots on each day, not during December, must be provided. Additionally, the number of hearings being offered does not provide 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. In fact, hybrid hearings that offer both in-person and virtual participation will capture more participation because, if they are located at accessible locations throughout the watershed, people who cannot take part through a computer or phone will be able to speak in person. Verbal testimony is essential to the input process and, for many, the only practical means of participation available to them.

- 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.
- 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 before you fill out another form with your comment. 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 submittal. 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 request that the Commission allow comments postmarked before the end of the comment period to count regardless of when they are received.

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 democratic, 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 export/import regulations.

In alphabetical order:

350 Bucks County

350 Philadelphia

350NJ-Rockland

Alliance of Nurses for Healthy Environments

Berks Gas Truth

Better Path Coalition

Bozeman Birders

Bucks Environmental Action

Bus For Progress

Catskill Mountainkeeper

Central Jersey Environmental Defenders

Clean Air Council

Clean Water Action

Climate Reality

Coalition Against Pilgrim Pipeline - NJ

Damascus Citizens for Sustainability
Delaware Riverkeeper Network
Don't Gas the Meadowlands Coalition
Earthworks
EcoPoetry.org, Maplewood NJ
Environment New Jersey
Environmental Stewardship Committee of the New York Society for Ethical Culture
Food & Water Watch
FracTracker Alliance
FreshWater Accountability Project
Genesis Farm
Independent Environment Experts (declaired by NJ BoE)
Indivisible Central NJ
Kean University
League of Women Voters of Delaware
League of Women Voters of New Jersey
League of Women Voters of New York State
League of Women Voters Pennsylvania
Indivisible
BROTHERHOOD OF THE MAINTENANCE OF WAY EMPLS, IBT (Teamsters)
MLK Coalition of Greater Los Angeles
Natural Resources Defense Council
New Jersey Forest Watch
New Jersey Highlands Coalition
NY Water Action
NYC Friends of Clearwater
Occupy Bergen County
Pennsylvania Campaign for Clean Water EV Team

People Over Pipelines
Physicians for Social Responsibility Pennsylvania
Piney Paddlers
Pollinator Pathway Northeast
POWA - Protect Our Water & Air
Protect Northern PA
Raritan Headwaters
Resolution Media Fund
Sanford-Oquaga Area Concerned Citizens (S-OACC)
Schuylkill Pipeline Awareness
Sherr Consulting
Sierra Club
Sourland Conservancy
South Jersey Progressive Democrats
Sullivan Alliance for Sustainable Development
Tidewaters Gateway Partnership Inc.
Topanga Peace Alliance
Union County Peace Council
United for Action
UUS:E
Waterspirit