



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

June 27, 2013

Ms. Carol R. Collier  
Executive Director  
Delaware River Basin Commission  
25 State Police Drive  
P.O. Box 7360  
West Trenton, NJ 08628-0360

Dear Ms. Collier:

I am writing to convey a profound sense of frustration and disappointment on behalf of my constituents due to the inaction of the Delaware River Basin Commission (DRBC) in finalizing standards with respect to the safe and responsible development of natural gas.

For over three years, a moratorium issued by the DRBC has been in place which has prohibited the development of natural gas within all or parts of 13 Pennsylvania counties that lie within the basin. Wayne, Pike and other northeast Pennsylvania counties in particular have been impacted by this situation. Adoption of this moratorium – namely through the postponement of consideration of well pad dockets – was purportedly done to allow for the drafting of appropriate standards that would protect the water resources of the basin. However, deferring the submission of applications until regulations are adopted presumes that regulations will, ultimately, be adopted. That has failed to occur.

This moratorium has done more than prohibit the citizens of Pennsylvania who reside within the basin from enjoying their property rights. It has depressed economic growth in the region, discouraged the investment of private capital in the Commonwealth, and reflected poorly on the DRBC's ability to function effectively.

I certainly share the interest and commitment of my fellow Commissioners in ensuring natural gas is developed in a responsible manner that protects public health and our natural resources. I believe we are striking the appropriate balance throughout Pennsylvania, through the adoption of first-class standards that have served as a model to other shale-gas producing states across the nation. Moreover, while confident in the state's own standards, in the interest of compromise and with respect for our fellow DRBC members, Pennsylvania worked diligently and constructively to help craft rules for adoption by the DRBC.

Pennsylvania's contributions to these proposed rules were greatly informed by the stringent rules already adopted by the Commonwealth. In addition to substantially increasing well permit fees, which more than doubled the number of inspectors, Pennsylvania has adopted comprehensive well construction, casing, cementing and integrity standards; water treatment and discharge standards and air inventory and permitting thresholds.

Moreover, since the DRBC's scheduled November 2011 meeting to consider adoption of final rules was cancelled, Pennsylvania has significantly enhanced environmental protection standards through passage of Act 13 in February 2012. Act 13 represents the first comprehensive update of the state's Oil and Gas Act since 1984, incorporating proposals from the Governor's Marcellus Shale Advisory Commission and members of the Pennsylvania General Assembly.

All 24 of the recommended legislative changes to the Oil and Gas Act put forth by the Governor's Marcellus Shale Advisory Commission were included in Act 13. These enhancements included increased well setback distances; increased well bonding amounts; expanded protections of surface and groundwater sources; mandatory disclosure of hydraulic fracturing chemicals; emergency response planning and response criteria; increased penalties for violations; mandatory inspections and notice requirements to the Department of Environmental Protection (DEP), and other standards to better protect the environment and local communities. Both my office and DEP staff have shared details of our legislative and regulatory accomplishments with members of the DRBC.

It is critically important to note that finalization of DRBC rules related to natural gas development does not compel any member jurisdiction to permit drilling activity. Each state still retains the ability and authority to determine under what, if any, circumstances development may occur. However, the current situation is unacceptable. The citizens of Pennsylvania residing within the basin have been denied the enjoyment of their property rights due to the inaction of the DRBC. Operators interested in developing natural gas have closed offices and laid-off employees; lease payments have been withheld; force majeure clauses in contracts have been exercised, and communities have watched their neighbors outside the basin benefit tremendously. In addition to this inequity, the DRBC's inaction may very well constitute a 'taking' under the U.S. Constitution, subjecting its members, including the Commonwealth of Pennsylvania, to financial and other legal ramifications.

For all of these reasons, I urge the DRBC to move forward without further delay and finalize the process it initiated more than three years ago.

Sincerely,



TOM CORBETT  
Governor

cc: The Honorable Chris Christie  
Governor of New Jersey  
The Honorable Andrew M. Cuomo  
Governor of New York  
The Honorable Jack A. Markell  
Governor of Delaware  
Brigadier General Kent D. Savre  
U.S. Army Corps of Engineers