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Pamela Bush,
Commission Secretary
Delaware River Basin Commission
P.O. Box 7360
25 State Police Drive
West Trenton, NJ 08628

Dear Commissioner Bush:

The Pennsylvania Independent Oil and Gas Association (PIOGA) and the employees of its over 800 member organizations are providing comments on the Delaware River Basin Commission (DRBC) draft Article 7 Water Quality Regulations that were proposed on December, 9, 2010. The stated purpose of the proposed regulation is the protection of the water resources of the Basin during the construction and operation of natural gas development projects and implementation of the statutory authority that the member states, including Pennsylvania, granted to the Commission. In addition, DRBC states that the proposed regulations supplement the Commission's Comprehensive Plan.

The PIOGA is the principal nonprofit trade association representing Pennsylvania's independent oil and natural gas producers, marketers, service companies and related businesses. PIOGA member companies drill and operate the majority of the Pennsylvania's crude oil and natural gas, including the Marcellus Shale. Our members have, for decades, successfully provided the heat to your homes, the gas to your stovetops, and the energy to grow and prosper your communities in the basin; all the while protecting the natural environment water resources of the Commonwealth of Pennsylvania – the state that we call home. This activity has occurred under the oversight and control of the Commonwealth of Pennsylvania through implementation of the Pennsylvania's Oil and Gas Act. The Act was debated and enacted by the elected representatives of all of the people of Pennsylvania. In 1961 similarly elected representatives of the people of Pennsylvania found reason for the Commonwealth to become a member of the Delaware River Basin Commission. In taking that step they ceded a portion of the Commonwealth sovereignty 'to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region'. The purpose that the General Assembly of the State of Pennsylvania assigned to the DRBC was, in part, 'to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the state; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities, without regard to established political boundaries.'

It is within that purpose that we take issue with the Commissions proposed regulations.

- I. The proposed DRBC regulations seem to use the planning, management and control purposes of the Commission to prevent, rather than provide for, the utilization and development of the water resource. The proposed regulations create a very prescriptive and unnecessarily bureaucratic process of approvals that will hinder the growth of the oil and gas industry in Pennsylvania at a time when job growth is so important. The DRBC should not attempt to fulfill one part of its purpose, the protection of water resources, at the expense of another of its purposes, the utilization and development of water resources. To that end PIOGA respectfully urges the removal of the requirements for Natural Gas Development Plans.
- II. It appears that DRBC has grossly overestimated the impact of gas drilling activities on water resources in the watershed. Therefore, it proposes regulations disproportionate to that impact, while ignoring the greater impacts of other activities. See the study and analysis done for the Marcellus Shale Coalition attached to its comments. We respectfully request the Commission scale back the scope of its regulations to address only those activities within its statutory purview and to defer to the states where appropriate. In particular, PIOGA urges that the DRBC eliminate its requirements for financial assurance and accept the duly promulgated requirements of the member states.
- III. PIOGA has not chosen to provide a detailed, word by word analysis of the proposed regulations. Instead we rely upon and incorporate herein by reference comments submitted by the New York Independent Oil and Gas Association, the American Petroleum Institute and the Marcellus Shale Coalition. Through our active working relationships and shared interest in providing comments, PIOGA and its members are in strong agreement with the comments provided by these organizations and incorporate any and all comments from these organizations by reference.

In closing, PIOGA believes that the DRBC's activist stance on natural gas development in the Basin is directly in contradiction with another of the Commissions purposes – 'to remove causes of present and future controversy'. The Commission has not been granted the authority to regulate the conduct of oil and gas exploration and development activities in the State of Pennsylvania. That authority resides with the Pennsylvania General Assembly and the Pennsylvania Department of Environmental Protection. The Commission lacks the perspective of elected representatives and is simply without the authority, not to mention the expertise, to dictate the property rights of Pennsylvania citizens, the conduct Pennsylvania's oil and gas development activities, or the energy policies for the Commonwealth.

Sincerely,



Louis D. D'Amico,
President and Executive Director