

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



Policy No. 2011-01
March 10, 2011

PAD-TO-PAD INTERBASIN TRANSFERS OF FLOWBACK FOR NATURAL GAS WELL DEVELOPMENT

All natural gas well development projects in the Susquehanna River Basin (basin) targeting the Marcellus or Utica shale formations, or any other formation identified in a determination issued by the Executive Director, are subject to review and approval by the Susquehanna River Basin Commission (Commission) pursuant to 18 CFR §806.4(a)(8), regardless of the quantity of water withdrawn, diverted or consumptively used in support of such projects.

As part of its regulatory scheme for such projects, the Commission administratively issues an Approval by Rule (ABR) on a drilling pad basis pursuant to 18 CFR §806.22(f), under which it regulates all sources and quantities of water used consumptively at the pad site. In addition to all separately approved sources of water, project sponsors are also authorized to utilize flowback or produced fluids for hydrofracture stimulation undertaken at the pad site (18 CFR §806.22(f)(6)). This is done administratively upon issuance of the ABR by the Executive Director of the Commission pursuant to 18 CFR §806.22(f)(9).

It is the policy of the Commission to encourage and incentivize the reuse of flowback and production fluids for this purpose, since it reduces reliance on the fresh water resources of the basin for such use. However, under the current rule, an approval issued by the Executive Director under 18 CFR §806.22(f)(9) does not authorize pad-to-pad transfers of flowback or produced fluids to the extent such transfers constitute a diversion.¹ Particularly in situations where pad sites in close proximity to one another are separated by the basin divide, this limitation in the current rule works to frustrate that underlying policy.

Accordingly, it shall be the policy of the Commission to have all pad-to-pad interbasin transfers of flowback and produced fluids generated by natural gas well development be subject to approval by the Executive Director pursuant to 18 CFR §806.22(f)(9), provided such transfers are only authorized for use in hydrofracture stimulation at the recipient pad site, the flowback or produced fluids are managed in containment systems isolated from the waters of the basin, and satisfy all monitoring and reporting requirements deemed appropriate by the Executive Director. To effectuate the foregoing, the Commission hereby waives the applicability of diversion standards set forth in 18 CFR §806.4(a)(3) for this limited purpose and directs the Executive Director to utilize the administrative authority granted under 18 CFR §806.22(f)(9) to continue to serve the essential purposes set forth in 18 CFR §806.2².

¹ 18 CFR §806.22(f)(9) states, in part, as follows: "The issuance of any such approval shall not be construed to waive or exempt the project sponsor from obtaining Commission approval for any water withdrawals or diversions subject to review pursuant to 18 CFR §806.4(a)."

² Authorization for and standards related to the waiver are set forth in 18 CFR §806.8.