



## INTRODUCTION

1. The Commission, purporting to interpret and rely on Section 3.8 of the Compact, claims discretionary authority to review, approve, and thereby regulate nearly all forms of human activity in the Basin, including the use of private land for residential, commercial and industrial purposes.

2. The Commission's position, distilled to its essence, is that any activity, development or other human undertaking in the Basin that uses water in some manner is a "project" that the Commission has the prerogative to review and approve if the Commission believes that the undertaking may have a "substantial effect" on the water resources of the Basin.

3. Because it is difficult, if not impossible, to identify an undertaking in the Basin that does not involve water in some manner, the Commission's discretionary "project" review authority purportedly extends to nearly every form of human endeavor in the Basin, subject only to the Commission believing, in a given case, that a proposed "project" may have a "substantial effect" on the water resources of the Basin.

4. The Commission, relying on the enormous power that it contends has been delegated to it by Section 3.8 of the Compact, and seeking to placate those State governments and special interest groups opposed to natural gas development, has declared that all natural gas well pads and related facilities targeting shale formations in the Basin are “projects” that it will review under Section 3.8 of the Compact.

5. In addition to asserting that well pads and related facilities are “projects” that it must approve before they are constructed, the Commission has announced that it will not review applications for well pads and related facilities, and associated activities, until it adopts governing regulations. This moratorium, which amounts to a ban on the lawful use of land that cannot be remedied at the ballot box, has been in effect since 2010.

6. WLMG, by this Complaint, seeks relief from the Commission’s *ultra vires* assertion of jurisdiction and related dictate that WLMG is prohibited from constructing a well pad and drilling a natural gas well without Commission approval.

7. WLMG, as partial relief for the trampling of its constitutionally protected rights, and seeking to make otherwise lawful

use of its property, requests that the Court declare that the Commission does not have authority to require WLMG to apply for and obtain Commission “project” approval for a natural gas well pad and related facilities targeting natural gas in shale formations on WLMG’s property.

### **JURISDICTION AND VENUE**

8. This action arises under the Compact. The Commission is asserting jurisdiction, pursuant to Section 3.8 of the Compact, over the construction of a well pad, appurtenant facilities, and unspecified “related” activities, associated with the drilling, completing and operating of a gas well targeting shale formations on private property owned by WLMG.

9. The Commission’s assertion of jurisdiction is based on its current interpretation of Section 3.8 of the Compact, which provides for Commission approval of “projects,” and its related assertion that natural gas well pads and related infrastructure associated with exploration and production wells targeting shale formations, together with related activities conducted on the well pads, constitute “projects” as that term is defined in the Compact.

10. The Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 because it raises a federal question, and under the statute effectuating the Compact, Pub. L. 87-328, 75 Stat. 688, § 15.1(p) (1961), because this action arises under the Compact. WLMG seeks declaratory and other appropriate relief under 28 U.S.C. §§ 2201 and 2202.

11. Venue is proper within this district pursuant to 28 U.S.C. § 1391(b).

### **PARTIES AND THE PROPERTY**

12. WLMG resides, and owns approximately 180 acres of land, including the natural gas and minerals present on the land, in Wayne County, Pennsylvania. Approximately 75 acres of the land owned by WLMG is located in the Basin (the “Property”).

13. The Property is located in a part of the Basin that overlays natural gas reserves in shale formations.

14. The Commission is an agency created by, and with only such authority as is expressly conferred on it by, the Compact. The Compact is an agreement among the United States, New York, Pennsylvania, New Jersey, and Delaware, as approved by Congress in 1961.

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