

Why a Full Ban on Fracking is Required in the Delaware River Watershed

White Paper for Joe Biden Administration **To Secure Prompt & Meaningful Action**

In 2010, the four states of the Delaware River Watershed, supported by the federal Obama administration, passed a resolution through the Delaware River Basin Commission (DRBC) that put in place a *de-facto* moratorium to protect the Delaware River, its communities and watershed from the irreversible harms of hydraulic fracturing for natural gas (fracking). The Governors of the four states and a federal representative from the Army Corps of Engineers, representing the U.S. President, comprise the voting members of the DRBC.

On September 13, 2017, the Governors of the four states, by and through the DRBC, followed up this action with the approval of a DRBC resolution that, among other actions, instructed the DRBC staff to develop gas regulations that would transform the moratorium into a permanent ban on fracking throughout the Delaware River watershed. The proposed ban on fracking, while supported by the watershed states¹, was opposed by the Army Corps Colonel representing the Trump administration.

The Delaware River provides drinking water for over 17 million people, including New York City and metropolitan Philadelphia. Because of its outstanding natural values, the nontidal river is designated by Congress as a Wild and Scenic River and is the longest stretch of anti-degradation protection waters in the United States, and the tidal river is a National Estuary. The River, because of its healthy water quality, flows, and ecosystems is a recognized economic driver for the region, supporting over \$22 billion of annual economic benefit. The healthy quality, flows, river life and wildlife draw visitors from all over the region, nation and world to benefit from the natural beauty, recreational and family-value benefits the River provides.

We are reaching out to encourage President Joe Biden, through his representative on the DRBC, to vote in support of the ban on fracking as well as the other moratorium protections essential for protecting drinking water, ecosystems, and River-dependent local economies. Delaware, Pennsylvania, New Jersey, and New York border the Delaware with tributaries that flow through the watershed to the main stem.

¹ NY, PA and DE all voted to support the proposed ban on fracking at the 2017 vote; at the time NJ, then under a Christie administration, abstained but since that time Governor Phil Murphy took office in 2018 and has repeatedly announced he supports a ban on fracking in the Delaware River watershed along with other harmful aspects of the industry.

The draft regulations that would ban fracking in the Delaware River watershed were issued on November 30, 2017; the public comment period closed March 30, 2018. While fracking itself was proposed to be banned, the proposed regulations would allow frack wastewater to be brought into the basin and stored, treated and discharged here, and would also allow water to be withdrawn to fuel fracking outside of the basin.

Overwhelmingly, through the submission of over 70,000 written comments and hours of verbal testimony, the public supported the proposed ban on fracking but opposed opening up the watershed to the wastewater and water withdrawals of the fracking industry. As those comments made clear, it is simply not logical to ban fracking but allow the pollution and water resource depletion caused by fracking to occur anyway. Along with the general public, the interstate coalition of diverse organizations that have championed a full ban on fracking for many years wholeheartedly supports the proposed ban on fracking but steadfastly opposes allowing wastewater from fracking to be imported and water exported for fracking. And we are reaching out to urge a Biden Administration to do the same.

As noted above, since 2010 there has been in place a *de facto* moratorium on gas drilling, fracking, and its operations within the Delaware River watershed because of the DRBC resolution adopted unanimously by the four states and President Obama's representative from the Army Corps. That consequential vote put in place the current protections essential for our watershed by prohibiting DRBC permits for drilling, fracking, wastewater discharges and water withdrawals for fracking. This protection has protected the communities of our watershed but also prevented the environmental and public health damages caused by fracking elsewhere. Pressure from industry to drill in the watershed has intensified in recent years as industry representatives² and pro-fracking politicians³ (the most recent suit brought by the Pennsylvania Senate GOP caucus) are actively suing DRBC, challenging their authority to regulate fracking in their efforts to access the gas locked in the Marcellus and Utica shales that underlie over 1/3 of our precious watershed.

As the push to expand fracking and related activities builds, the need for permanent and comprehensive protection provided by DRBC regulations becomes more urgent. A vote by the DRBC for a complete and permanent ban on fracking and its operations (i.e. wastewater and water withdrawals) can be achieved at this moment in time, a moment that may disappear as our state governments change during the Biden Administration.

² <https://www.law360.com/cases/573b39277c9e047950000001/articles>

³ <https://www.law360.com/articles/1343599/pa-republicans-sue-agency-over-de-facto-fracking-ban>

When the draft fracking regulations were published in 2017, our communities banded together: tens of thousands of people wrote to DRBC during the public comment period and testified at hearings on the draft natural gas regulations calling for a full ban on fracking - prohibiting fracking, frack wastewater discharges and the export of water from the river for fracking. Over 100,000 petitions were collected and delivered to the DRBC Commissioners in 2018 calling for a complete and permanent frack ban. Members of the public and representatives of our coalition organizations have spoken at every DRBC public comment session since the public comment period closed, keeping the Commissioners abreast of the hundreds of scientific reports, environmental and health research papers, and the growing body of evidence regarding fracking and its unavoidable and devastating impacts.

Examples of recent findings submitted include:

- In March 2020, numerous new reports on the global warming potential of methane and the effects of climate change already occurring in the Delaware River region were presented. Additionally, the *Intergovernmental Panel on Climate Change* report was submitted, showing that to avoid the impending climate disasters for the world's most vulnerable communities, greenhouse gas emissions must be reduced by at least 45% from 2010 levels by 2030 to prevent global warming of 1.5°C above pre-industrial levels.⁴ Reports on methane demonstrated it is the most powerful greenhouse gas warming the atmosphere (86 times more potent than carbon on the critical 20-year time scale)⁵. This supports the need institute a ban on fracking and its unavoidable greenhouse gas emissions.
- In June 2020, the Attorney General publicly released Pennsylvania's 43rd Statewide Investigating Grand Jury Report #1 on the unconventional oil and gas industry.⁶ The report documents the unprecedented damage to the environment and human health that the "fracking boom" brought to communities where fracking occurred throughout the last decade in the Commonwealth.

⁴ *Intergovernmental Panel on Climate Change, Summary for Policymakers, Revised on January 2019 by the IPCC, Switzerland, ISBN 978-92-9169-151-7*, downloaded at: <https://www.ipcc.ch/sr15/>

⁵ Myhre, G. et al. 2013. Anthropogenic and Natural Radiative Forcing. In: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Stocker, T.F., D. Quin, G.K. Plattner, M.Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex, and P.M. Midgley (eds). Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA

http://www.climatechange2013.org/images/uploads/WGIAR5_Citations_Draft.pdf

⁶ <https://www.attorneygeneral.gov/wp-content/uploads/2020/06/FINAL-fracking-report-w.responses-with-page-number-V2.pdf>

- Reports on adverse health impacts of fracking and its operations have been published by the hundreds in recent years. One review of literature from 2016 through 2018 showed that health effects are continuing and in some cases escalating in Pennsylvania’s fracked regions, with significant impacts on infants, young children and fetuses.⁷ A shocking cluster of childhood cancers in southwestern Pennsylvania is being investigated by the state Department of Health. The 7th Edition of the Compendium of scientific reports on the effects of fracking published in December 2020 concluded that the examination by the Concerned Health Professionals of New York and the Physicians for Social Responsibility “uncovered no evidence that fracking can be practiced in a manner that does not threaten human health directly and without imperiling climate stability upon which public health depends”. The reviewers recommended that the only way to avoid these health impacts is to ban fracking.⁸

With the rollback of federal environmental protections and regulations under the Trump Administration, the dangers for our Watershed have become more perilous. The Commission’s role becomes urgently important to protect the Delaware River’s vulnerable and irreplaceable communities, habitats, and water supplies. The unrelenting pressure of the special interests who want to expand drilling and fracking into our Watershed must be halted – the only way to effectively avoid harm is to prevent it in the first place. The stakes are too high to do anything less. We need a complete, permanent, watershed-wide ban on fracking and its activities.

The DRBC meets four times per year and can call a special meeting to take action on the draft natural gas regulations at any time. We are asking that the federal representative to the Commission, representing the President, be instructed to call the vote for a complete and permanent fracking ban throughout the Delaware River Watershed. The draft natural gas regulations that are under review should be amended to:

- permanently ban hydraulic fracturing (fracking);
- ban the storage, processing, discharge and/or handling of wastewater produced by fracking;
- prohibit the export of Delaware River Watershed water and water resources out of the basin for fracking anywhere.

⁷https://www.delawariverkeeper.org/sites/default/files/FracTrackerAlliance_DRKHealthReview_Final_4.25.19_0.pdf

⁸ Concerned Health Professionals of New York, *The Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking*, 7th Edition, December 2020. <https://concernedhealthny.org/compendium/>

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