

November 1, 2021

For Immediate Release:

Contact:

Maya van Rossum, the Delaware Riverkeeper, 215.801.3043,

[keepermaya@delawareriverkeeper.org](mailto:keepermaya@delawareriverkeeper.org)

Tracy Carluccio, Delaware Riverkeeper Network, 215.692.2329

[tracy@delawareriverkeeper.org](mailto:tracy@delawareriverkeeper.org)

Eric Benson, Clean Water Action, 908-510-0196, [ebenson@cleanwater.org](mailto:ebenson@cleanwater.org)

B. Arrindell, Damascus Citizens for Sustainability, [dcs@DamascusCitizens.org](mailto:dcs@DamascusCitizens.org)

Doug O'Malley, Environment New Jersey, 917-449-6812,

[domalley@environmentnewjersey.org](mailto:domalley@environmentnewjersey.org)

Eric Weltman, Food & Water Watch, 617-304-5330, [eweltman@fwwatch.org](mailto:eweltman@fwwatch.org)

**DRBC Proposes Fracking Regulations that Put River & Communities at Risk**  
***“The Devil’s in the details,” says environmental coalition***

*West Trenton, NJ* - On October 28, the Delaware River Basin Commission published draft natural gas regulations that lift the current moratorium on imports of fracking wastewater into the basin and exports of water for fracking operations outside of the basin. While the Delaware River Frack Ban Coalition Organizing Committee is still reviewing the draft regulations, our organizations are already concerned with loopholes we have discovered and call on the Commission to close them in order to protect the basin’s water resources and the communities that rely on them.

For instance, in a troubling contradiction, the draft regulations propose to prohibit the discharge of wastewater produced by fracking and related activities to water or land within the watershed but seem to allow the import of wastewater produced by fracking (“high volume hydraulic fracturing”) into the Delaware River Watershed under certain conditions. See: [https://www.nj.gov/drbc/meetings/proposed/notice\\_import-export-rules.html#2](https://www.nj.gov/drbc/meetings/proposed/notice_import-export-rules.html#2). There are proposed amendments to the DRBC’s Water Code that will define the conditions under which the wastewater, which can be highly toxic and radioactive, can be imported. There is considerable concern how imported wastewater would be used, if not “discharged”. The proposed rules also allow the export of water from the watershed to be used for fracking outside of the watershed with some amendments to the current regulations, which “discourage” but do not ban out of basin transfers of water.

Controversy has raged for years within the communities of the Delaware River Watershed, which spans the four states of New York, New Jersey, Pennsylvania, and

Delaware, regarding fracking and its related operations. After 10 years of a moratorium on fracking, water export and the discharge of fracking wastewater, fought for by the public, the Delaware River Basin Commission banned fracking throughout the watershed in February of this year. At the same time, they directed the DRBC staff to prepare draft gas regulations that would propose whether or not the import of wastewater produced by fracking and the export of water for fracking outside of the watershed was also going to be banned. The draft regulations fall short of the COMPLETE ban demanded by the public and members of the Delaware River Frack Ban Coalition.

The public and the Coalition have been calling for a ban on the storage, processing, discharge or disposal of wastewater produced by fracking in the Delaware River Watershed since 2017, when the Commissioners first charged the DRBC staff to develop draft regulations that addressed the “storage, treatment, disposal and/or discharge” of wastewater produced by fracking ([DRBC Resolution for the Minutes, September 13, 2017](#)). Now the proposed regulations do not ban the storage, processing, or disposal of fracking wastewater, they only ban discharge. While banning discharge is absolutely crucial, without banning the importation of fracking wastewater, the draft regulations seem to greenlight other “uses” that are allowed for imported wastewater in current DRBC regulations. The coalition is concerned that this could lead to the Watershed being used to recycle this toxic waste as cooling water, open the door for air drying processing or burning of waste, or allow storage in the enormous tank facilities being used in fracking today.

The Delaware River Frack Ban Coalition Organizing Committee is made up of representatives from: Berks Gas Truth, Catskill Mountainkeeper, Clean Water Action, Damascus Citizens for Sustainability, Delaware Riverkeeper Network, Environment New Jersey, Food & Water Watch, New Jersey Sierra Club, and League of Women Voters of Delaware.

Expert analysis of the draft regulations will be conducted by organizations in the Delaware River Frack Ban Coalition and the Coalition will be assisting the public to participate in the public comment process and the upcoming public hearings. The Hearings are scheduled during the December holiday season, depriving many people of the ability to participate, which is unfair and must be changed. The comment period is 90 days when it should be longer considering the holidays, COVID restrictions and the demands of long-distance virtual schooling for many parents that have resulted, and the complex nature of this technically-based rulemaking.

“The DRBC regulatory proposal regarding toxic frack wastewater and water withdrawals for the Delaware River basin is a mixed bag that is going to require a lot of detailed analysis to fully understand. On its face it seems that the DRBC is looking to take a stance against the discharge of toxic frack wastewater within the basin, but at the same time create loopholes that may allow the import and use of the waste in ways that put our river, watershed and communities at risk. DRBC is also leaving the door open for water exports, particularly in the form of wastewater, that could be used as the source of water for fracking operations that will sacrifice other communities and watersheds to this devastating industry. The proposal is detailed and will require careful analysis. But what we know is that what our watershed communities need and have been demanding is complete protection, not nuanced regulations that the industry can game. Anything short of that is a betrayal of the public trust, our river, communities, environment and the future generations being sacrificed to the dirty fossil fuel industry in the form of environmental pollution, desecration and climate catastrophe,” **said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.**

“The DRBC draft regulatory proposal goes in a backwards direction from where we have been in the past 10 years during the moratorium when fracking wastewater imports were banned in the Delaware River Watershed. The weak stance that seems to allow the import of wastewater produced by fracking here in the watershed sets up loopholes that can be exploited by the industry. While the discharge of wastewater is proposed to be prohibited, which it should be, the full ban we wanted on all fracking wastewater imports and the ban on all water exports to support fracking outside of the basin is not being proposed. We will be doing a deep dive into the details of how the draft regulations and amendments to the DRBC Water Code are crafted and our coalition will be fully engaged in the public participation process. First off, to carry out the public participation process for these all-important regulatory changes during the holiday season is unreasonable and unacceptable. Combining the holidays, COVID, and the complexity of the proposed rules, it is completely unfair to expect the public to meaningfully engage during December. The comment period is only 3 months long, with one month during the December holidays, which also limits public engagement. We will be fighting for full protection of the Delaware River Watershed and its communities and our intention and the goals of the public are to achieve a full ban on fracking wastewater imports and exports of water to fuel fracking in other communities, an abhorrent and unethical practice,” **said Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network.**

**B. Arrindell, Director of Damascus Citizens for Sustainability,** added that the DRBC has been remarkably successful on its 60 year history fulfilling its obligation to protect

the resources of the Basin including the water, air, our health and the health of the other inhabitants of this watershed and must at this crucial time continue its good work and clear up the problems in the proposed regs as they stand. We want the Basin to remain unsullied by toxic waste and not have our water make anyone elsewhere sick from fracking or have water removal cause depletion of aquifers, streams and the Delaware itself. It must be remembered that climate change will compound damage.

“The public is demanding a ban on imports of fracking wastewater and exports of clean water for fracking outside of the basin. Whatever it is the DRBC has proposed, it’s not that. The only thing that the Commission makes clear is that discharges of wastewater are prohibited, but those of us who live in Pennsylvania know that accidental discharges occur frequently and that, lacking an enforcement arm, the DRBC will depend on our wholly-incompetent Department of Environmental Protection to manage things when they do. Therefore, a proposal that allows imports under any circumstances puts our water at risk. And a proposal that allows exports under any circumstances means that the DRBC is willing to subject other parts of my state to the fracking it concluded was too dangerous to allow here. The DRBC needs to do better. The public won’t rest until it does.” **said Karen Feridun, Founder, Berks Gas Truth.**

“We have been fighting for almost 14 years for complete ban on fracking in the Delaware Basin we are almost there. However with the new proposed rule there are red flags being raised. We are concerned that there are loopholes being created that could bring in frack waste and export clean water out of the Basin. These rules need to be clarified and fixed ASAP”, said **Jeff Tittel retired former Director NJ Sierra Club** “We are backsliding from the Moratorium and that cannot be allowed to happen. DRBC what part of No Export of Water - No Discharging, Importing, Processing or Storage of Frack Waste don’t you understand! DRBC, do your job we want a Complete and Full Ban of Fracking Now!”

"Releasing complex and nuanced rules for the import of frack waste and the export of Delaware Basin water for fracking is not as good as the simple moratorium we have now," **said Eric Benson, Clean Water Action, NJ Campaigns Director.** " We need to simply close the door to all frack activities in the Basin. We remain concerned that these rules have potential loopholes that polluters can exploit."

“The watershed victory of a ban on fracking in the Delaware River watershed earlier this year promised a potential future of a complete ban on all fracking activity across the watershed. These proposed regulations offer murky uncertainty that fracking wastewater and water withdrawals would be entirely banned throughout the watershed. The current moratorium on all fracking activities in the watershed provides the gold

standard that these regulations should aim for and the DRBC needs to provide total clarity that any fracking activities shouldn't imperil the watershed," said **Doug O'Malley, Director of Environment New Jersey.**

"The DRBC's ambiguous draft regulations fall short of what's necessary to protect a source of drinking water for millions of people," said **Eric Weltman, a New York-based senior organizer with Food & Water Watch.** "We call on the four governors from the region, as well as the Biden administration, to firmly slam the door shut on all fracking activity in the watershed. New York's Governor Hochul must stand up to the fossil fuel industry and demand the strongest possible protections for our health, communities, and environment."

"DRBC took one giant step forward when they banned fracking on the Delaware River. Their draft regulations, however, are one giant step backwards when it comes to protecting the basin from fracking waste. We have been fighting for a ban on both the import and export of fracking wastewater and DRBC's regulation falls short," said **Taylor McFarland, Acting Director of the Sierra Club, NJ Chapter.** "In order to truly protect the drinking water for 15 million people, we need a comprehensive ban including the discharge of wastewater and taking of drinking water for fracking. Without it, we are putting our environment and public health at risk."

"Every time we turn around we find some new highly toxic chemical like PFAs being used in the fracking process. Along with radioactive brine and other nasty production fluids, this should be an ALL CAPS BANNER that tells us we can't truly protect the river without making sure there is no legal way to bring waste into the Basin", said **Wes Gillingham Associate Director of Catskill Mountainkeeper.** "Industry is always hunting for loopholes and backdoors. If we want to protect this basin for the health and future of this region, these regulations need to be stricter and clearly defined."

###