



c/o Delaware River Greenway Partnership

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February 16, 2022

Delaware River Basin Commission

P.O. Box 7360

West Trenton, NJ 08628

Dear Delaware River Basin Commissioners,

The Lower Delaware Wild and Scenic River Management Council (LDWS) submits these comments regarding the **“Proposed Regulations Addressing Importation and Exportation of Water and Prohibiting the Discharge of Wastewater from High Volume Hydraulic Fracturing.”**

Wild and Scenic Rivers Background

The Lower Delaware is the National Wild and Scenic River System segment, established by Congress on November 1, 2000, as Public Law 106-418, includes 65.6 miles of River segments which form the Pennsylvania and New Jersey border, plus named tributaries. The National Park Service (NPS) is responsible for the long-term protection of the River and administers the Wild and Scenic Rivers Act.

NPS works closely with the Wild and Scenic Management Council, created through the designation as an advisory and coordinating body. The Council is comprised of representatives from local, state, and federal governments, as well as environmental nonprofits. The Lower Delaware River Management [Plan](#) (August 1997) was developed as a part of the Wild and Scenic River Study, approved by all State and local parties, and referenced by Congress as the Plan by which the Wild and Scenic River would be managed. It identifies ecological resources and water quality as key attributes of the River that must be “protected and enhanced.”

Lower Delaware Geography

The “Lower Delaware,” includes River segments from Easton, PA to just north of Trenton, NJ, as we are a bistate group. It spans from river mile 193.8 to the northern border of the City of Easton, from south of the Gilbert Generating Stations to north of the Point Pleasant Pumping Station, from South of the Point Pleasant Pumping Station to 1,000 feet north of the Route 202 Bridge, and from 1,750 feet south of the Route 202 bridge to Washington Crossing. Additionally, some Pennsylvania tributaries are designated including Tinicum Creek, (headwaters of two upper branches to the Delaware River confluence), Tohickon Creek, (downstream of Lake Nockamixon to the Delaware River confluence), and Paunacussing Creek, (portions passing through Solebury Township to the Delaware River). The Musconetcong River, (a 3.5 mile stretch from Saxton Falls to Route 46 and the 20.7 mile stretch from King’s Highway Bridget to railroad tunnels at Musconetcong Gorge), was designated in 2006.

Observations and Concerns About Hydraulic Fracturing Liquids

The Delaware River watershed provides drinking water for 17 million people. Contamination of the river waters by liquids used in hydraulic fracturing whether directly or through subsurface disposal is our principal concern.

Fracking fluid contaminants, many not even be identified or tested for safety, are in the fracking wastewater that could be imported to our watershed for treatment.

We ask that you ban:

- The import into the Delaware River watershed of wastewater produced by fracking.
- The export of Delaware River Watershed fresh water out of the basin.

The draft regulations do not prohibit frack wastewater processing, storage, or disposal of cooling water use at power plants, injection wells, and other uses.

- The draft rules allow the import of toxic & radioactive wastewater into our watershed for treatment, which we fear will ultimately work its way into our drinking water which serves millions of people.
- Fracking waste processing plants include incineration, thermal oxidation, air-drying systems, and other processes that allow emissions to air (not regulated by DRBC), an additional source of pollution and danger to health and safety.
- The draft regulations allow for the storage and transport of fracking wastewater, possible sources for leaks, spills, and other accidents.

Fracking fluid is known to be toxic.

Fracked wastewater contains toxic contaminants such as:

- Ammonium, Radium, Selenium, and Thallium, all of which are dangerous to human health and the environment.

Other known liquid waste components contain:

- Carcinogens, endocrine disruptors, heavy metals, poisonous hydrocarbons (such as per- and poly-fluoroalkyl chemicals), radioactivity, and toxic high salt content.

Included in this poisonous mix are:

- BETX materials, Benzene, Ethylbenzene, Toluene, and Xylene, among others which are unknown. Many of these are considered “trade secrets” and concealed from the public.

Injection wells are not expressly prohibited.

The definition of “disposal to water or land” is unclear, and could include injection wells, which merely transfer toxic wastewater to underground aquifers, a major source of drinking water in the basin.

“Special” waste is not non-toxic. It is unmentioned in the proposed rulemaking.

Oil and gas, drilling fluids, produced water, and hydraulic fracture fluids are all unregulated toxic substances. Labeled as “special” removes all these pollutants from regulation. Toxic and radioactive,

they cannot be handled by municipal sewer and treatment plants, allowing for these toxins to end up in our drinking water.

Fracking consumes vast amounts of water, up to as much as 20 million gallons per well.

Depletive use of water from rivers and streams has harmful, far-reaching, and complex environmental impacts.

- It deprives spring, tributaries, groundwater, and the mainstem Delaware of critical flows in both quality and quantity.
- It supports fracking in locations where it would not otherwise occur due to water shortages in overdrawn and depleted streams.
- It depletes flow in waterways, which can harm instream habitats, disrupt life cycles, reduce biodiversity, and destroy ecological flow regimes.
- It induces even more fracking, which damages both public health and the environment.
- It increases the emission of greenhouse gas methane, worsening the climate crisis.

Most, or all the water used in fracking is lost – it does not return to the source.

The Pennsylvania Department of Environmental Protection (PADEP) reports that only 8 to 10 percent of Marcellus Shale frack water (“flow back”) is returned to the surface. The other 90% is sequestered deep underground and lost to the hydrologic cycle. Any of this water that later surfaces is highly polluted and must be handled as dangerous waste.

Under the DRBC proposed water export regulations, the definition of exportation of water is its removal from the watershed without its return. Water exported will be permanently lost to the basin. This differs from the current Water Code, which is protective of Delaware water.

The proposed DRBC draft fracking regulations are inconsistent with the Goals & Objectives of the LDW&S Partnership River - Management Plan (available here: <https://www.lowerdelawarewildandscenic.org/index.php/resources/documents/lower-delaware-wild-and-scenic-management-plan>).

The Lower Delaware Wild and Scenic Management Council oppose the current DRBC draft regulations in their current form. The importation and exportation of water and the discharge of wastewater from high volume hydraulic fracturing is in direct opposition to the primary goal of the LDW&S effort to, “Maintain existing water quality in the Delaware River and its tributaries from measurable degradation and improve it where practical.”. For all the above reasons, we ask that you instate a full fracking ban, which includes the export of water for fracking, and the import of fracking waste.

Thank you for your consideration of our request, and the health and safety of the basin and the people who live here.

Sincerely,

Richard Dodds

Richard Dodds, Lower Delaware Wild & Scenic Partnership River - Chair