



# Upper Delaware Council

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November 5, 2009

Mr. Jack K. Dahl, Director  
Attn: dSCEIS Comments  
Bureau of Oil & Gas Regulation  
NYSDEC Division of Mineral Resources  
625 Broadway, Third Floor  
Albany, NY 12233-6500

RE: Comments on the NYS DEC Draft Supplemental Generic Environmental  
Impact Statement (dSCEIS) on the Oil, Gas, and Solution Mining Regulatory  
Program

Dear Mr. Dahl,

The Upper Delaware Council (UDC) offers these comments regarding the New York State Department of Environmental Conservation Draft Supplemental Generic Environmental Impact Statement (dSCEIS) on the Oil, Gas, and Solution Mining Regulatory Program, dated September 2009.

The UDC is the oversight body responsible for the coordinated implementation of the 1986 River Management Plan for the Upper Delaware Scenic and Recreational River, a component of the National Wild and Scenic Rivers System. Our voting members are the two states (New York and Pennsylvania) and thirteen local governments (NY towns and PA townships) which border on the Upper Delaware River. The Delaware River Basin Commission (DRBC) is a non-voting member of the Council. We operate under a direct contractual relationship with the National Park Service for the oversight, coordination, and implementation of the River Management Plan as approved by the Secretary of The Interior.

On March 20, 2008, New York State Governor David A. Paterson signed Executive Order NO 9: REVIEW, CONTINUATION AND EXPIRATION OF PRIOR EXECUTIVE ORDERS which ordered the following:

All state agencies shall act consistently with the River Management Plan to the extent permitted by applicable law. The Department of Environmental Conservation shall provide to other State agencies such technical information and assistance as they may require in order to comply with this Order.

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***Working together to conserve the Upper Delaware Scenic and Recreational River***

*Town of Hancock • Town of Fremont • Town of Delaware • Town of Cochecton • Town of Tusten • Town of Highland • Town of Lumberland  
Town of Deerpark • Lackawaxen Township • Shohola Township • Westfall Township • State of New York • Commonwealth of Pennsylvania  
Delaware River Basin Commission • In partnership with the National Park Service*



The NYS DEC is currently represented on the UDC by Representative William J. Rudge, Natural Resources Supervisor, NYS DEC-Region 3, and Alternate Representative Michael J. Flaherty, Inland Fisheries Manager, NYS DEC-Region 3.

The River Management Plan does have specific references to the words “oil,” “gas,” and “pipeline,” but we do not believe that it ever envisioned horizontal drilling or hydraulic fracturing. Selected references in the River Management Plan to the words “oil,” “gas,” and “pipeline,” include the following:

Page 123 — “**New major oil and gas transmission lines and refining/production facilities** for other than local service will not be located within the river corridor excepting for individual wells, (subject to conditional use review), lines constructed to provide service to or collect from individual customers or wells. This does not prohibit maintenance of existing facilities or the location of new lines within existing rights-of-way.” **Major Oil and Gas Lines** are defined on page 129 as “Any pipe or conduit used for the transmission of natural gas, oil or other fuel which is one thousand (1000) feet or longer and is under pressure of 125 pounds per square inch (p.s.i.) or greater. This does not apply to natural gas, oil, or other fuel distribution lines for residential, industrial and commercial use.”

Page 134 — “**Gas/Oil Fields & Lines** are listed as “Appropriate Special Uses/Conditional Uses. They are, however, specifically subject to the limitation on page 123 as stated above. Gas and Oil Fields are defined as “Any oil or natural gas exploration activities such as drilling or seismic testing, or any new operation which extracts petroleum related products such as crude oil or natural gas from the earth.”

Page 134 lists “**Major Oil & Gas Transmission Lines**” as “Incompatible Uses” anywhere in the River corridor. - **Major Oil and Gas Lines** are defined as “ Any pipe or conduit used for the transmission of natural gas, oil or other fuel which is one thousand (1000) feet or longer and is under pressure of 125 pounds per square inch (p.s.i.) or greater. This does not apply to natural gas, oil, or other fuel distribution lines for residential, industrial and commercial use.”

Page 134 of the River Management Plan’s Land and Water Use Guidelines also lists “Heavy Industrial Uses” as being incompatible anywhere in the river corridor and defines that use as “The manufacturing, production or refining of raw materials or the large scale assembly of component parts for non-local distribution or consumption, typically involving the generation of waste by-products, extensive buildings and ancillary transportation modes, but not including home occupation or traditional activities such as lumber yards or dairy processing plants.”

We expect that the NYS DEC will continue to protect and conserve the outstanding natural resources and special qualities for which the Upper Delaware was designated by the United States Congress in 1978 as a unit of the National Park System. It is home to threatened and endangered plant and animal species. It is a world-class trout fishery and is recognized by the Audubon Society as an Important Bird Area. It is a Pennsylvania water trail. Part of the river is included in the Pennsylvania Rivers Conservation Registry. Portions of New York State Route 97 are designated as both the Upper Delaware Scenic Byway and Bike Route 17. The river corridor contributes three sites to the New York State Revolutionary War Heritage Trail.



The Upper Delaware Council is very concerned over how the cumulative effect of natural gas exploration and associated facilities might affect the river corridor and the entire watershed. Much of the river corridor is comprised of forested steep slopes and low-land areas which are susceptible to flooding. Clearing for well pads, access roads, and pipelines, and other facilities could have an impact on the character of the area and pose significant threats to the natural resources, particularly water quality, for which the Upper Delaware Scenic and Recreational River corridor was designated as a unit of the National Park System.

We previously expressed concerns in the UDC staff's December 15, 2008 letter to you regarding the scoping document, and although many issues have been addressed, others need further scrutiny. They include, in no particular order, the following:

1. Protection of ground and surface water quality and quantity
2. Impacts on drinking water wells
3. Increased flooding
4. Air quality
5. Scenic impacts
6. Noise and light pollution
7. Cumulative effects
8. Forest fragmentation and clearing
9. Road construction and impacts on existing roads and bridges
10. Pipeline construction
11. Compressor stations
12. Water withdrawals
13. Fracking fluid storage and disposal
14. Unknown underground faults which could mix gas, fracking fluid, and groundwater
15. What is a safe pressure for injecting fracking fluid
16. Failure of concrete casings and piping over time
17. Impacts of fracking on the bluestone industry
18. Storage of chemicals and waste
19. Leaks and explosions
20. Truck traffic
21. Spread of invasive species
22. Monitoring by states and DRBC, which have limited staffing
23. Exemptions from federal law under 2005 Energy Policy Act
24. Possible use of railroad for transportation of chemicals and waste
25. Impacts on emergency and municipal services
26. Associated growth and infrastructure issues
27. Social and economic impacts
28. Mechanism for notifications to municipalities by NYS DEC upon receipt of permit applications

We expect that there will be an adequate increase in the number of state inspectors to monitor and enforce the relevant regulations.

In the interest of protecting the river corridor, we request that the Upper Delaware Council be notified of any applications for natural gas drilling-related activities which could impact the Upper Delaware Scenic and Recreational River corridor. We recommend that there be a robust and accessible mechanism for public notification. We further recommend that local officials be notified of any permits applied for within their towns.

Thank you for the opportunity to comment on this Draft Supplemental Generic Environmental Impact Statement and for your continued cooperation to uphold the spirit of the River Management Plan for the Upper Delaware Scenic and Recreational River.

Sincerely,



George J. Fluhr,  
Chairperson

cc: Hon. David A. Paterson, NY Governor  
Hon. Charles Schumer, US Senator, NY  
Hon. Kirsten Gillibrand, US Senator NY  
Hon. Maurice D. Hinchey, Jr., US Congressman, 22<sup>nd</sup> District NY  
Hon. John Hall, US Congressman, 19<sup>th</sup> District NY  
Hon. John Bonacic, NY State Senator, 42<sup>nd</sup> District  
Hon. Aileen M. Gunther, NY State Assemblywoman, 98<sup>th</sup> District  
Hon. Clifford W. Crouch, NY State Assemblyman, 107<sup>th</sup> District  
Hon. Edward G. Rendell, PA Governor  
Hon. Arlen Specter, US Senator, PA  
Hon. Robert P. Casey, US Senator, PA  
Hon. Christopher Carney, US Congressman, 10<sup>th</sup> District PA  
Hon. Lisa Baker, PA State Senator, 20<sup>th</sup> District  
Hon. Michael T. Peifer, PA House of Representatives, 139<sup>th</sup> District  
Hon. Sandra J. Major, PA State Representative, 111<sup>th</sup> District  
Carol Collier, Executive Director, Delaware River Basin Commission  
Pete Grannis, Commissioner, NYS DEC  
William Janeway, Regional Director, NYS DEC - Region 3  
Steve Schassler, Regional Director, NYS DEC - Region 4  
William Rudge, NYS DEC and UDC Rep.  
Michael Flaherty, NYS DEC and UDC Alternate  
Dennis DeMara, PA DCNR and UDC Rep.  
Gary N. Paulachok, Deputy Delaware River Master, USGS  
Mayor Michael R. Bloomberg, New York City  
Steven W. Lawitts, Acting Commissioner, NYC DEP  
Dan Wenk, Acting Director, National Park Service  
Dennis Reidenbach, Northeast Regional Director, National Park Service  
Sandra Schultz, Acting Superintendent, National Park Service - UDSRR  
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