

## *SOUTHERN ADIRONDACK AUDUBON SOCIETY*

### **Re: Delaware Regional Basin Commission's Draft Natural Gas Development Regulations**

Southern Adirondack Audubon Society (SAAS), a local chapter of the National Audubon Society representing over 400 local members residing in Warren, Washington, and Saratoga Counties in New York State, is deeply concerned with the impacts increased natural gas development could have on birds, other wildlife, and their habitats throughout New York State.

With the escalation of regional gas drilling activity SAAS strongly supports the Delaware Regional Basin Commission's (DRBC) efforts to establish appropriate regulation and oversight of the siting, construction, and use of drill sites, and over the associated water withdrawals and wastewater disposal activities. With the expected build out of 18,000 horizontal wells, shale gas drilling is expected to result in upward of 2,000 wellpads creating a footprint of more than 10,000 acres and consuming tens of billions of gallons of water use. It is therefore important to establish, stronger oversight with the necessary safeguards to ensure better protection against pervasive and irreversible consequences of poorly controlled shale gas development.

SAAS strongly supports the Commission's initiative to oversee drilling activities on a basin-wide scale as a strategy that will better avert undesirable impacts from large scale changes in land use and water withdrawals. With the cross-jurisdictional authority granted to it under the DRBC Compact, the Commission has a responsibility to address water protection at this larger scale. The DRBC's obligation to take a holistic view must be built upon an effective enabling framework, including the analytical tools necessary for basin-wide assessment and oversight.

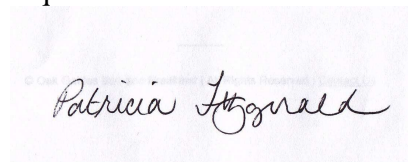
SAAS supports the Commission in excluding wellpads from flood hazard areas, wetlands, and critical habitat areas for threatened and endangered (T&E) species. While these regulations promote the avoidance of areas with T&E species, they do allow for mitigation. Because mitigation cannot always compensate for losses of critical habitat areas, it is critical that determinations on mitigation options only be made by the respective agencies with trust responsibilities for those species. We call upon DRBC to clarify the language on T&E species mitigation decision making to clearly identify that these decisions rest with the respective state or federal agencies.

SAAS also supports DRBC in establishing defined setbacks from wetlands, water bodies, and other features, creating important protective buffer zones which will lessen water quality degradation due to runoff and sedimentation. However, we recommend that the monitoring requirements in the guidelines be used to judge whether these buffers are sufficient to achieve the desired protective outcomes, and that if the buffers do not provide adequate protection, provisions be made for strengthening these buffering requirements after the regulations go in to effect.

We believe the DRBC's requirements for constraints mapping and for early basin wide planning via the Natural Gas Development Plan (NGDP) process are instrumental to improving oversight of Basin resources. Without the NGDP, the Commission's ability to effectively carry out its mandate will be substantially impaired. The NGDP must be the central mechanism by which DRBC oversight of drilling is implemented. However, we suggest the requirement to map Natural Heritage Program areas be expanded to include Conservation Opportunity Areas (or other designations of State Wildlife Action Plans) as well as areas of concern to federal authorities. Further, we ask DRBC to strengthen this provision to require that the developer avoid those resources or provide proofs why such avoidance is not feasible. Where these resources can be avoided, we urge the Commission to use its approval authority for such protection.

We strongly agree with the Commission for prohibiting the storage of production and flowback fluids in open containment pits as is commonplace elsewhere and for requiring production waters to be reused or taken off site for proper treatment at facilities that are equipped and properly regulated to treat these toxic waste waters. Storing 'flowback' water in open sites would generate the greatest risks to wildlife and water quality, and the proposed prohibitions are highly justified. We also commend DRBC for its extensive reporting and tracking systems, essential for ensuring the proper disposition of the billions of gallons of wastewater. However, we are greatly concerned about the adequacy of the proposed regulations with respect to tracking re-use when fluids are re-used at other sites outside of the Basin. There appear to be gaps in the reporting requirements for exported reuse waters, a loophole which undermines the Commission's proposed oversight of wastewater disposal. We urge the Commission to strengthen provisions covering exported wastewaters.

Southern Adirondack Audubon Society believes New York State residents deserve strong safeguards to make sure our natural resources and our communities are adequately protected from adverse impacts. DRBC's regulations will provide needed protections, and SAAS supports their implementation with the modifications we have described to further strengthen these requirements.

A handwritten signature in cursive script that reads "Patricia Fitzgerald". The signature is written in black ink on a light-colored background.

Respectfully submitted,  
Patricia Fitzgerald  
President  
Southern Adirondack Audubon Society