

State fracking lawsuit tossed

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ALBANY — A lawsuit that sought to force a study of the environmental impacts of gas drilling in the Delaware River Basin was tossed out by a federal judge this week.

State Attorney General Eric Schneiderman sued a variety of federal agencies last year, arguing that the Delaware River Basin Commission was required by law to undertake a comprehensive environmental analysis before allowing hydraulic fracturing in the river's watershed.

But U.S. District Court Judge Nicholas Garaufis ruled Monday in favor of

the Army Corps of Engineers and the Environmental Protection Agency, deciding that Schneiderman's lawsuit was filed too early and was speculative in nature. The federal agencies had asked the judge to dismiss the suit.

A proposed set of regulations for hydrofracking in the basin have been stalled for months and a moratorium has remained in place. New York, meanwhile, has yet to allow large-scale hydrofracking anywhere in the state.

"Plaintiffs appear to believe that, if Defendants are not forced to comply with NEPA (National Environmental Pol-

icy Act) now, their interests will be placed at risk immediately," Garaufis wrote. "But that is not the case. The courts will be available if and when the DRBC adopts final regulations permitting natural gas development."

The Delaware River Basin Commission is a partnership among the federal government and the river's four watershed states — New York, New Jersey, Pennsylvania and Delaware.

A total of 2,390 square miles of the river's watershed are in New York, covering much of Delaware and Sullivan counties and small portions of six others, including the eastern part of Broome,

western portion of Ulster and a sliver of Chenango. It lies above the gas-rich Marcellus Shale formation.

While Garaufis' ruling was a setback for Schneiderman and environmental groups that intervened in the lawsuit, it does not prevent the state from re-filing.

"Although the court's decision was based on procedural issues, we are pleased that the ruling left the door open for legal action on the merits of our case at a later date," Schneiderman spokesman James Freedland said in a statement.

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