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**Delaware RIVERKEEPER<sup>®</sup> Network**

# The Year in Review

2009 marked an important milestone for the Delaware Riverkeeper Network (DRN). From its establishment in 1988, DRN functioned as an affiliate of the American Littoral Society (ALS). Over 20 years, DRN transformed itself into a force to be reckoned with in the Delaware River watershed. 2009 saw DRN's separation from ALS, a long-planned for step that established two separate, strong and independent environmental advocacy organizations.

When we looked back at our efforts during the past year, we found successes that lifted our spirits and sent ripples through the River community—like the preservation of the 392-acre Petty's Island that has affected expectations for the protection of other River islands. And there were challenges demanding a response—like the renewed political pressure to build and use flood control structures along the main stem Delaware River.

Looking back at the year just past can serve as a reminder of how quickly some things can change and, unfortunately, how other things never do. We began the year proudly displaying our *Defend Rivers* banner in Wilmington, Delaware, at the inaugural festivities that greeted President-Elect Obama's Whistle Stop Tour, with hopes for change in how our rivers are treated. But the struggling economy would prove to be a weapon in the hands of those who would take advantage of our public waters for personal gain. Soon, bad-for-the-environment proposals that we thought had been defeated were being resurrected and described as good for the economy.

But just as flood control structures proposed for the main stem Delaware River provide a false sense of security encouraging construction in floodplains, proposals like the Easton Riverwalk and the Delaware Deepening, provide false hope for communities hit hard by the economic downturn. Backers of these projects present a false choice between the environment and the economy.

A healthy Delaware River watershed is the basis of a healthy economy. Projects like the Deepening that put the River at risk also put at risk the thousands of jobs that rely on the \$34 million generated annually from the ecotourism dependant upon the horseshoe crabs and migratory shorebird phenomenon, and the \$80 million generated by the annual oyster harvests or the jobs that could be supported by the resurrection of our historic caviar industry, the current value of which could be as much as \$400 million in revenue.

Hasty decisions made to generate a quick buck often cost so much more in the end. The legacy of past mining practices teaches us this; the harm inflicted by mining practices was recognized in the 1800's. But today, many miles of our headwater streams still run orange with acid or black with coal silt. The damage was done by the time regulations were passed.

In 2009, DRN led the fight to protect our waterways with more effective regulations and tackled bad ideas that threatened our rivers and streams. I am always amazed at how much our dedicated staff and volunteers accomplish, often with very limited resources. I am pleased to be able to share with you now the year's highlights.



*Delaware Riverkeeper Maya van Rossum and son kayaking at the John Heinz National Wildlife Refuge at Tinicum. Photo by F. Stine.*

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Fred Stine, *Citizen Action Coordinator* • Chari Towne, *Director, Awareness-to-Action*  
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**Filed 2 lawsuits** in Federal District Court to STOP the U.S. ARMY CORPS OF ENGINEERS from deepening the Delaware and *stripping states of their legal authorities under the Clean Water Act* and other federal laws.

Protected a **392-acre River island** from development that would have included *1,500 homes, a conference center and golf course*; instead it will be RESTORED AND PRESERVED IN A NATURAL STATE.

**Organized 3 river clean-ups** that removed *3,000 pound of trash, nearly 2,000 pounds of recyclables* and over 1,500 POUNDS OF INVASIVE PLANTS.

Presented the 12th annual Schuylkill Watershed Congress which offered *30 concurrent sessions, 6 poster sessions, 20 exhibits* and ATTRACTED OVER 200 PARTICIPANTS.

Organized 5 volunteer workdays that improved **8.5 acres along our waterways** by *removng non-native invasive plants and planting native plants*.

COLLECTED BACTERIA DATA in **4 Pennsylvania watersheds** to get polluted streams listed on the state's "dirty waters" list and, ultimately, cleaned up.

**Assessed over 12.6 miles of stream** in order to implement projects to RESTORE STREAM FUNCTION AND HABITAT.

**Saved 10,000 fish from certain death** after an *illegal sediment discharge* from a COUNTY IMPOUNDMENT.

**Assisted 17 community groups,** through Pennsylvania's Consortium for Scientific Assistance to Watersheds, resulting in **450 INDIVIDUALS BEING TRAINED** in watershed concepts.

# Seeking Stronger Protections for our Rivers and Streams

## ***Progressive Floodplain Protection***

DRN, as the only appointed member representing the environmental community on the Delaware River Basin Commission's Floodplain Regulation Evaluation Subcommittee, influenced meeting agendas and the recommendations in the subcommittee's final report. As a result, the report urges regulations that call for a mandatory buffer requirement and increased prohibitions on floodway development. The report also recognizes the importance of restoring developed floodplains. DRN action alerts and outreach spurred important comments from technical experts and municipal officials that helped advance the report to the DRBC Commissioners.

## ***PCBs***

One hundred and twenty-four facilities continue to legally discharge PCBs directly into the Delaware River despite a ban on their use in this country contributing to the River's failure to meet standards for PCBs and consumption advisories for 10 species of fish. Yet DRN had to fend off a proposal that would have allowed new and expanded PCB discharges. Furthermore, the Delaware River Basin Commission and the U.S. EPA both proposed PCB regulations that are soft on both discharge prevention and non-compliant dischargers. DRN challenged the scientific assumptions of DRBC's proposal, and spurred public comment. Since the fall public com-

ment period, there has been no action on DRBC's proposed regulation (or the EPA's). PCB dischargers have filed suit as a result.

## ***PFOA Drinking Water Standards***

After DRN testing found Perfluorooctanoic acid, or PFOA, in New Jersey tap water in 2007, the Department of Environmental Protection issued strict drinking water guidance for this man-made chemical. But when New Jersey's Drinking Water Quality Institute began developing a mandatory drinking water standard in 2009, industry pushed back by undermining both the DWQI and DEP scientists. DRN weighed in to support the DWQI and agency scientists and advocate for independent science-based decisions, the establishment of a mandatory, health based drinking water standard, and DEP's immediate adoption of an interim standard to protect public health.

## ***Coal Ash***

Fly and bottom ash from PPL's now-closed Martins Creek Electric Generating Facility is stored in pits in Lower Mount Bethel Township, Northampton County, PA. DRN, working with the Environmental Integrity Project, Earthjustice, and organizations across the nation, called for the U.S. EPA to properly classify coal ash on the basis of its toxic components to ensure that the storage and ultimate fate of waste ash is safely managed.

## ***Protecting Streamside Lands in Pennsylvania***

DRN continued to work with our colleagues in Pennsylvania to secure regulations that would require developers to protect forested buffers on all streams. Our efforts were meeting with success until a change in leadership at Pennsylvania Department of Environmental Protection resulted in an about face from the position of the previous head of the agency. DRN and our partner organizations revised our strategy to not only continue to push for buffers, but also to prevent the rollback of protections for some of Pennsylvania's cleanest streams that was proposed by DEP under the new Secretary.

## ***Reforming Stormwater Management in New Jersey***

Prompted by direct experience of municipal misapplication of New Jersey's stormwater regulations, DRN undertook a case study of Hamilton Township's (Mercer County) stormwater program. Our research, conducted in cooperation with technical experts, documented mass misapplication of the law even as development was proposed for areas where flooding has historically occurred. DRN's report on this investigation, issued in May 2010, includes recommendations for strengthening application of regulations at the state and municipal level as well as in Hamilton Township specifically.

# Tackling the Toughest Issues in Watershed Protection Today

## *Stopping the Deepening of the Delaware River*

*The dedication of the Delaware Riverkeeper to the preservation of the Delaware River and Bay is inspirational! The performance of the staff is most outstanding. It is a rewarding a privilege to be associated with the Delaware Riverkeeper Network.*

*-- Robert V. Martin,  
Delaware Member*

DRN prepared written comments, action alerts, press releases and calls to action that produced a barrage of comments challenging the Deepening. Despite the evidence of opposition to the Deepening, the Army Corps took a shortcut—issuing a truncated Environmental Assessment instead of updating its 13-year old Environmental Impact Statement—to move the project forward.

As a direct result of a 2008 legal action by DRN, the Delaware Department of Natural Resource and Environmental Control issued a decision denying the Army Corps a needed permit in July. DRN learned through a Freedom of Information Act request—and shared with the states, the public and the press—that the Army Corps had methodically taken steps to try and exempt itself from the Delaware permit requirement, New Jersey legal reviews and requirements of the Clean Water Act, generating a firestorm of concern by all.

When the Army Corps announced a Notice to Proceed with the project in October, regardless of all its legal deficiencies, DRN represented itself and four other citizen environmental organizations by filing legal actions in November in Federal District Court in New Jersey and in Delaware. New Jersey and Delaware also filed suit. DRN continues as the regional leader on this issue. *(In January 2010, the Delaware District Court judge issued an order allowing the first phase of the Deepening to begin, while also granting an injunction for the later phases of the project. The legal challenges are continuing).*

## *Preventing Natural Gas Drilling, New York and Pennsylvania*

DRN is working with and helping to lead the coalitions working on this issue in Pennsylvania, New York, and at the national level. DRN advocacy included community organizing, educational outreach, advocating for strict regulations in New York, Pennsylvania and at the regional Delaware River Basin Commission, and working to convince our Delaware River watershed federal delegation to support the FRAC Act (to remove the federal exemption from the Safe Drinking Water Act that hydraulic fracturing enjoys). DRN's efforts provided key support and impetus to the Delaware River Basin Commission for an Executive Director Determination, issued in May, that placed all aspects of natural gas development in the Delaware River watershed's Special Protection Waters under DRBC jurisdiction. DRBC will develop natural gas-specific regulations through a public rulemaking process.



*Photos: Top, M. van Rossum; Center and Bottom: T. Carluccio.*

# ***Working from the Highlands to the Bay . . .***

## ***Protecting Important Forests, Sullivan County, New York***

DRN worked with members in the Town of Bethel to protect the forested headwaters of the Mongaup River. DRN and the *Preserve Smallwood Country Life* citizen group called for rezoning of 200 acres of undeveloped land to a Forest Conservation Zone. One hundred acres were included in the draft zoning document (*Local citizens group and DRN continue to advocate for the rest of the acreage to be included*).

## ***Protecting Floodplains from development, Easton, Pennsylvania***

After two years of DRN advocacy, the City of Easton shelved “Riverwalk,” a federal transportation and parking facility proposed for a frequently flooded site in the 100-year floodplain. Additionally, the \$2.7 million awarded for the project by the Delaware River Joint Toll Bridge Commission was diverted to Easton’s Scott Park and, in a step towards preservation of the property, Northampton County bought the site back from the project developer.

## ***Stopping a Plant Factory Farm, Hunterdon County, New Jersey***

DRN continued to advocate for the end of the polluting operations and illegal soil destruction at the Garden State Growers facility, and for the protection of Lockatong Creek, which flows through the site, from degrading runoff. DRN testified at hearings before the Hunterdon County Development Agricultural Board and Franklin Township, reported pollution from the facility’s pesticides use to the Department of Environmental Protection, and worked with neighboring residents regarding pesticide drift.

## ***Protecting River Islands, New Jersey***

After securing the preservation of the 392-acre Petty’s Island in Pennsauken in January, DRN was alerted to proposed development of two more River islands. Sports fields have been proposed for the 524-acre Biles Island, a project in its early stages, but one being watched closely by DRN. In Burlington, the Board of Island Managers solicited development proposals for that 396-acre island. Proposals received include hotels, parking lots and commercial space. DRN engaged the Managers and the public on both the sides of the River around the value of the island as preserved, natural open space. DRN also raised the profile of development proposed for nearby Maple Beach with citizens concerned about Burlington Island in order to galvanize more comprehensive opposition to both projects.

## ***SugarHouse Casino, Philadelphia, Pennsylvania***

DRN challenged construction of the SugarHouse casino complex which, as initially proposed, would have resulted in construction along the Delaware River’s banks, dredging, filling, bulkheading, and increased discharges of untreated sewage and PCBs. We worked with concerned neighbors to oppose the project and teamed with the Public Interest Law Center of Philadelphia to challenge the project’s sewage facilities planning module. DRN efforts ultimately contributed to a redesigned project that no longer includes in-water construction but does include a 50-foot buffer for the River as well as decreasing the project scope and projected sewage flows for the interim SugarHouse casino.

## ***Protecting Horseshoe Crabs and Migratory Shorebirds. Delaware Bay***

DRN’s efforts to protect the horseshoe crabs and migratory shorebirds that are so fundamental to our Delaware River and Bay communities included fending off attacks on the moratorium on horseshoe crab harvesting in New Jersey, pressing the Atlantic States Marine Fisheries Commission for stronger regulations, and gathering the data on the status of the crabs and dependent migratory shorebirds necessary to inform our advocacy.

## ***Passages***

The Delaware River, and DRN, lost a good friend on November 17th, when Richard Albert died unexpectedly of a heart attack. Dick was a husband, father, and doting grandfather as well as a scientist, historian, and protector of the River. He worked for the Delaware River Basin Commission for 25 years and served as DRBC’s first basin planner. While working for DRBC, Dick wrote the Special Protection Waters regulations, now a national model for the protection of high-quality waters. After leaving DRBC, Dick served as DRN’s Staff Scientist and Restoration Director from 2000 to 2009. We miss you, Dick, but we thank you for the inspiration, knowledge and mentoring you provided us all.

### **Protecting Clean Streams, Crum Creek, Pennsylvania**

As part of its assessment of Pennsylvania's antidegradation program, DRN selected Crum Creek, a drinking water supply and Exceptional Value designated stream, for monitoring. Results indicated that degradation has occurred. DRN's data was used to advocate for improved monitoring and protection of our cleanest streams.

### **Swimmable Streams Project, Multiple Streams, Pennsylvania**

DRN worked with trained volunteers to collect a total of 212 bacteria samples at 20 stations along Neshaminy, Brodhead, Wissahickon, and Maiden Creeks during summer months. Our data helped uncover violations of Pennsylvania's fecal coliform standard for 3 of the 4 watersheds sampled. DRN's data was provided to the Department of Environmental Protection and is being used to list these streams in Pennsylvania's 2010 Integrated List in order to spur the development of clean up plans.



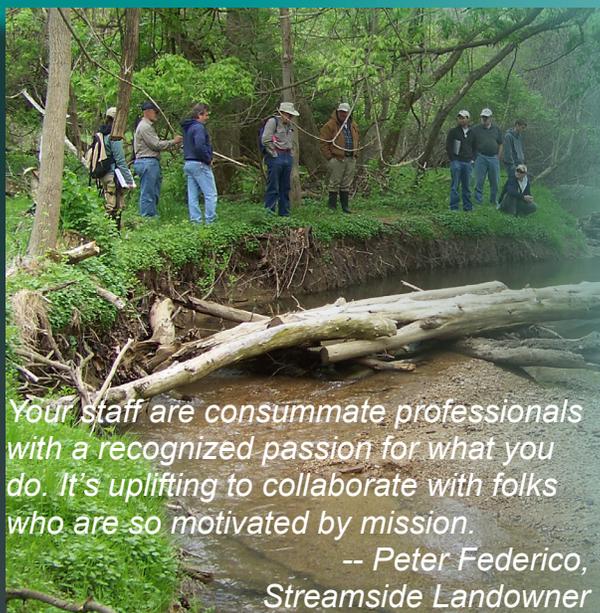
Photos: Above, T. Jones;  
Below, E. Gutzler.

### **Tinicum Creek, Pennsylvania**

DRN and project partners completed a comprehensive restoration design for a one-half mile section of Tinicum Creek that flows through permanently preserved land. The design incorporates root wads, boulder clusters, cross vanes, J-hooks, bank grading, and native vegetation to stabilize eroding stream banks, efficiently move sediment through the reach, and provide enhanced cover and habitat for trout and other aquatic organisms. DRN also produced a study that characterized gravel roads adjacent to the stream channels in the upper Tinicum Creek watershed and provided recommendations to minimize their impact on the stream system.

### **West Wayne Preserve, Pennsylvania**

DRN and its project partners developed a conceptual master plan for Radnor Township's 6.9 acre West Wayne Preserve that transforms the site's degraded landscape into a functioning wooded wetland and community amenity. During storm events, the proposed project will capture and treat the first one-half inch of runoff from the surrounding 44 acres to improve water quality and prevent flooding, erosion, and stagnant water conditions (*DRN and its project partners are now looking for funds to implement the developed plan*).



*Your staff are consummate professionals with a recognized passion for what you do. It's uplifting to collaborate with folks who are so motivated by mission.*

*-- Peter Federico,  
Streamside Landowner*

### **Upper Crum Creek, Pennsylvania**

DRN produced the *West Branch Crum Creek Coldwater Conservation Plan* which provides site specific stream restoration and management recommendations for five miles of the Exceptional Value designated West Branch.

### **Valley Creek, Pennsylvania**

DRN's studies of a 2.5 mile reach of Valley Creek resulted in two reports, one documented fish habitat and stream stability and the second documented large woody debris, which is an important component of stream ecosystems promoting biological diversity, providing critical habitat and cover for fish, and influencing channel morphology. In these reports, which were prepared for Valley Forge Trout Unlimited, DRN identified opportunities for habitat enhancement and stream restoration, and prepared conceptual designs and cost estimates for priority projects.

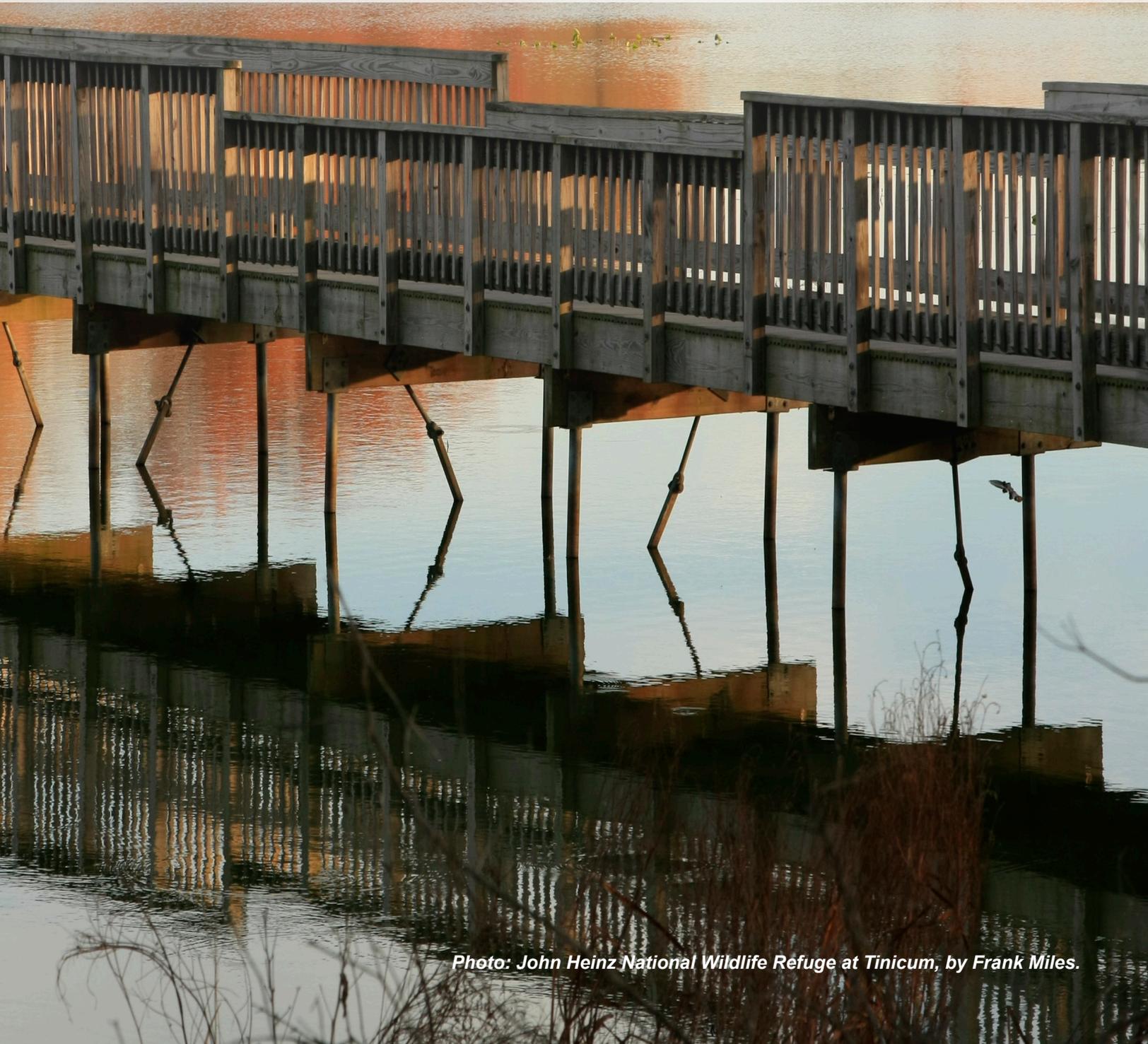
**... for all who depend on a healthy watershed.**

Established in 1988 upon the appointment of the Delaware Riverkeeper, the Delaware Riverkeeper Network (DRN) is the only advocacy organization working throughout the entire Delaware River watershed. DRN is committed to restoring the watershed's natural balance where it has been lost and ensuring its preservation where it still exists.

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*Photo: John Heinz National Wildlife Refuge at Tinicum, by Frank Miles.*