

**ENERGY & RESOURCES AD HOC COMMITTEE
MEETING MINUTES
February 27, 2012**

Members: Kevin LaForge, Fred Sinclair, Glen Benson, Curt Crandall, Marv Covert, Mike Healy
Others Present: Mitch Alger, Jill Barber, John Foels, Ted Hopkins, John Margeson, Tom Miner

1. CALL TO ORDER:

The meeting was called to order by Chairman Kevin LaForge at 11:10 a.m.

2. ENERGY & RESOURCES AD-HOC CHAIRMAN TOPICS

- At the NYSAC Conference Inter-County met with Commissioner Joe Martins of the NYSDEC complaining about storm cleanup; Hydrofracking and DEC providing funding for a study.

3. PLANNING & ECONOMIC DEVELOPMENT CHAIRMAN TOPICS

- NYSERDA grant update – STW agreement with Allegany County was discussed. Ecology and the Environment is the contractor. Allegany County sponsored the application for \$998,000 for all of Western New York. The contract needs to be approved and the county needs the opportunity for input. Items of concern include Hydro, wind applications, fuel cells, and biomass. 8 of the 10 regions received approval for grants. At STW recommendations and suggestions an expedited process leading to reducing the carbon footprint. We would like them to take a serious look at geothermal.

4. DRYDEN DECISION

- A ruling was handed down on the banning of drilling in the Town of Dryden in regard to "local control" by a local municipality recently in support of the Town.

5. LANDOWNER GROUP

- Allegany County landowners have an organized meeting the first Thursday of each month at Waterways Resort. Information was shared by the group with the committee.

6. STEUBEN COUNTY ROAD USE AGREEMENT

- Tom Miner indicated that "this is an excellent start at a local agreement" "excellent way to approach the question of reasonableness".
- Chairman asked should we start now in developing an Allegany County Agreement? Miner stated that would be a reasonable way to begin. The intent today is to have all review the sample document.
- There is concern that this may have impact on logging and agriculture. We'll discuss with the DPW staff further.

7. ADJOURN:

On a motion by F. Sinclair, seconded by M. Healy, was carried to adjourn the meeting at 11:59 a.m.

Notes as taken by J. Foels

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Energy & Resources Ad Hoc Committee
March 26, 2012
NOT APPROVED

Committee Members Present: K. LaForge, M. Healy, F. Sinclair, Marvin Covert, ~~Guy James, C. Crandall~~
(Absent: G. Benson)

Others Present: M. Alger, T. Hopkins, J. Luckey, J. Margeson, T. Miner, B. Rigby Riehle, and Legislative Internship Program guests Ryan Dougherty, Andover Central School; Austin Flower and Kelsey Schwendeman, Cuba-Rushford Central School

Media Present: B. Clark, *Olean Times Herald*; B. O'Neil, WLEA, Hornell

Call to Order: The meeting was called to order at 11:06 a.m. by Energy & Resources Ad Hoc Committee Chairman Kevin LaForge.

Approval of Minutes:

A motion was made by Legislator Sinclair, seconded by Legislator Healy, and carried to approve the Energy & Resources Ad Hoc Committee minutes of February 27, 2012.

Committee Chairman LaForge welcomed students participating in Legislative Internship Program to the meeting.

County Road Use & Repair Agreement

Deputy Public Works Superintendent Guy James led discussion on the updated County Road Use & Repair Agreement (amended from Steuben County). He noted that it presented a good template from which to build Allegany County's agreement to address degradation and a more precise mechanism for measuring that wear for Allegany County roads. It was noted that Mr. James would be in contact with local (villages and townships) highway superintendents to inform them of the County's actions and suggest that each municipality adopt a similar agreement for their respective jurisdictions.

Board Chairman Crandall inquired if the language in the agreement is clear enough to distinguish between the County's regular businesses which use the roadways versus those who have heavy concentrated use on County designated haul routes, making them "responsible and liable."

A motion was made by Legislator Sinclair, seconded by Mr. Covert, and carried to refer the County Road Use & Repair Agreement to the Public Works Committee, and after it has been reviewed and edited by that group, referred to the Ways & Means Committee. **Refer to Public Works Committee**

Inventory of Allegany County Lands for Possible Lease Hold Consideration (Marcellus and Utica)

Legislator LaForge noted that he had received some information from Denny Dunham (retired Maintenance Supervisor) which he had obtained at a meeting of 4-County Gas/Oil Leasing Group (comprised of Cattaraugus/Allegany Counties in NY; McKean/Potter Counties in PA) about information for lease negotiation.

Mr. LaForge noted that it would be a good idea to develop an inventory of which County properties could be leased if there is an uptick in the market, noting, "We have a fiduciary responsibility to our constituents to determine what it would be worth to the County." He will make that document (mentioned above) available.

Chairman Crandall noted, based on conversations he'd had the previous week, that the first step would be to identify the potential acreage that would be in play. He asked if it would be appropriate for that information regarding eligible properties to come from the County Attorney's Office as there may be some legalities that would prevent some of the parcels from being available for lease. He reiterated that identifying the properties, in his estimation, should be the first goal before proceeding further.

Mr. Miner commented that to his knowledge, there are no legal prohibitions to using the forested lands for extraction of oil and/or gas.

Legislator Healy noted that any lease that is drawn up can have restrictions such as "no drill;" such a restriction might decrease the rewards, but the County could still be in production unit and draw royalty without drilling on the property. He further noted that the responsible thing for us [the Legislature] is to try to gain some income for the County.

Legislator LaForge noted that the County needs a plan and procedure in place if the opportunity for leasing presents itself.

Mr. Miner added that his office could certainly determine the available acreage, but having no expertise in determining the value of said properties, would suggest an outside consultant.

Mr. James confirmed that approximately 2050 County-owned acres might be available.

Legislator Sinclair noted that the bulk of the information (regarding the County's forested lands) could be found in the document *Soil and Water Conservation* that Soil and Water Conservation Executive Director Scott Torrey distributed to the Planning and Economic Development Committee last week. He went on to say that as a courtesy, the County should notify any township in which a parcel is identified for consideration and ensure it is a willing participant and host. He added that the resources can be obtained from under the land without the need for wells. Because of the number of facets to this topic, Legislator Sinclair recommended that a team be formed to investigate possibilities.

Emergency Management and Fire Director Jeff Luckey indicated that water is also a prime resource in the County and it has revenue potential, but also needs to be protected.

Chairman Crandall indicated that once the land parcels are determined, the value of those parcels will need to be established.

There was some discussion regarding whether private landowners and/or the County could be subjected to compulsory integration, that is, included in the lease whether the landowner is in favor of it or not. It was also stated that drillers could obtain a parcel adjacent to County property and still extract the natural resources from the County property. Mr. Miner committed to looking into the County's rights under this scenario.

Mr. James indicated that if the County meets enough opposition to the leasing proposal, the land is still viable for harvesting timber, although, in his estimation, that enterprise would not be as lucrative.

Following a comment by Legislator Sinclair regarding possible increased value of parcels due to proximity to transmission lines, a discussion ensued about storage and buffer fields held by major energy producers that limit the rights of landowners whose property abuts those fields.

Mr. Covert informed the group that there is some land speculation going on based on rumors of imminent hydro fracking in the County.

A motion was made by Legislator Healy, seconded by Mr. Covert, and carried to have the County Attorney's Office prepare an inventory list of available parcels for discussion at the next Energy & Resources ad hoc Committee meeting for discussion at that time. **Refer to County Attorney's Office**

Allegheny County Landowners Can Organize (LOCL) & Farm Bureau Perspective

Legislator LaForge noted that Gillian Barber, on the agenda to represent the Allegheny County Landowners Can Organize (LOCL) & Farm Bureau perspective, was not present and sent no report.

Good of the Order

Following a comment by Mr. Covert regarding opposition to drilling in Arcade, Legislator LaForge noted that Pennsylvania is experiencing a decline in dairy production because farmers who make more money from the leases often jettison their dairy business.

Legislator Sinclair introduced a white paper on tax issues related to gas drilling by the Tompkins County Council of Government's Gas Drilling Task Force, Assessment and Land Valuation Subcommittee, which he feels is a fair assessment of the tax issues that arise when this type of drilling is involved. Legislator LaForge will review the paper and make copies available for the next meeting.

Mr. James noted that he distributed copies of a brochure for the cost-free forum "Freeing Up Energy: Hydraulic Fracturing—Unlocking New York's Natural Gas Resources," and indicated that pre-registration is necessary for either of the two sessions offered.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned at approximately 11:50 a.m. following a motion made by Legislator Healy, seconded by Mr. James, and carried.

Respectfully submitted,
Cynthia Santora, Secretary to the Clerk of the Board
Allegheny County Board of Legislators

ENERGY & RESOURCES AD HOC COMMITTEE
MAY 29, 2012
NOT APPROVED

RECEIVED
MAY 31 2012
BY: _____

Committee Members Present: K. LaForge, G. Benson, D. Healy, F. Sinclair, M. Covert, G. James, C. Crandall

Others Present: M. Alger, G. Barber, D. Fanton, J. Foels, K. Graves, T. Hopkins, J. Luckey, J. Margeson, T. Miner, B. Riehle, C. Santora

Media Present: B. Clark, *Olean Times Herald*; B. Quinn, *Wellsville Daily Reporter*

Call to Order: The meeting was called to order at 11:01 a.m. by Energy & Resources Ad Hoc Committee Chairman Kevin LaForge.

Approval of Minutes:

A motion was made by Legislator Sinclair, seconded by Legislator Benson, and carried to approve the Energy & Resources Ad Hoc Committee minutes of March 26, 2012. (No April meeting was held.)

County-owned Property Considered for Leasing—County Attorney Tom Miner

County Attorney Tom Miner distributed two documents, (a map of Allegany County illustrating County-owned forest lands [nearly 2,000 acres] and a listing of Allegany County Real Property Holdings) prior to leading a general discussion regarding the desirability of leasing any County properties to gas/oil drilling companies, particularly as the issue relates to hydraulic fracturing (hydrofracking). Reading from County Law, Mr. Miner noted that the County's legal authority over the use of the forested lands includes management of forest products, watershed protection, and oil and gas purposes. However, Mr. Miner indicated that there were policy issues which need to be determined to decide if the County wishes to pursue a leasing strategy. He advised there would need to be a cost-benefit analysis as pertains to potential revenue, impact on the environment, and additional factors to determine the County's next step in the process. He also cautioned that if the County pursued a drilling strategy, as a governmental agency, it would need to look at SEQR (New York's State Environmental Quality Review Act). When asked if the County would be the lead agency, Mr. Miner responded in the affirmative, saying the County would be the lead agency to see what environmental issues are involved, even with a no drill clause. The question would be to what extent the County could piggyback on the DEC's Environmental Impact Statement (EIS). The County could not claim to have done an EIS, because it has an obligation to look at the impact; however, much of what has been done may be applicable. Mr. Miner went on to say that there may be substantial value in those parcels (as regards gas/oil). He also advised that when negotiating any kind of oil or gas lease, conditions can be placed within those leases, so if there are certain concerns the County had, we would put them right in the lease contract (e.g., no drill clause, or whatever, to reach a predetermined comfort level). So the issues that remain, in his opinion, include: Do we (Allegany County) want to do it? If so, how do we want to approach it? Where do we want to do it (which parcels)? Where do we want to go? Many of these issues need to be looked at by those who have experience in this area. Mr. Miner also indicated that the County might be best served by contracting with an outside broker to allow the County to get the best benefit with the least risk.

He indicated the Committee may wish to determine what its next steps might be and what steps the Committee would like his office to take.

Legislator LaForge reminded the Committee of the Legislature's fiduciary responsibility to its constituents to investigate this issue. He noted that due to declining gas prices, this is a good time to explore the County's options before the next uptick in fracking excitement hits. Once opened for discussion, Committee members reiterated that clauses may be added to any lease contract that would protect County prerequisites, once they are established (e.g., no wells on County land, but access to resources under County lands). Marvin Covert concurred that leasing the mineral rights without drilling on the County properties would allow the land to remain untouched. Legislator Healy also supported the idea of including a no drill clause in any lease that might result for Allegany County, indicating that if there were no operations on County land, the County's liability would be reduced. Legislator Sinclair posed the question whether this discussion should be referred to the Ways and Means Committee for formulation of a policy. Chairman Crandall agreed that the Energy and Resources Ad Hoc Committee did not have the charge to set policy, but that it might be premature to refer this issue to another committee at this time. Chairman Crandall also queried whether the policy would be "flat" (i.e., uniformly applicable to all land parcels) or "flexible" (i.e., would different parcels require different clauses). Legislator Healy indicated he believes all the parcels should be leased as a "package." Legislator Sinclair advised checking to see if any properties adjacent to County lands have already been leased. Legislator LaForge indicated that lumping all parcels together as "no drill" might lessen a company's interest in the land. Legislator Benson asked if any tax sale oil and gas properties acquired by the County several decades ago might have mineral rights attached to them. Mr. Miner responded that the County typically shies away from properties with active wells due to the potential for environmental liability. He also indicated that he was unaware of any records regarding County-owned properties with reserved mineral rights, but, despite his supposition that those properties might have been disposed of sometime ago, would research more thoroughly to determine if the County retained any properties with mineral rights. Legislator LaForge requested that potential costs be researched before the County invests "serious money" into this potential project.

White Paper: "Taxation Issues Related to Gas Drilling" (Tompkins County Council of Governments (TCCOG) Gas Drilling Task Force Assessment & Land Valuation Subcommittee

The white paper prepared by Tompkins County Council of Governments Gas Drilling Task Force Assessment and Land Valuation Subcommittee was distributed for discussion. Legislator Sinclair noted that the paper raises important issues and seems to be a very balanced analysis of taxation issues surrounding drilling. The paper, he noted, is a good primer on the leasing system, noting its weaknesses and proposing methods for strengthening the land owners' (private or public) rights, and how the state and the localities can both realize a better revenue stream. He suggested a copy be given to the County Tax Director to give him some background and awareness of the potential issues. Legislator LaForge indicated that should the County institute a severance tax for drillers, it must be vigilant in maintaining those revenues to offset any detrimental impact of fracking to the localities, and not be a revenue generator for New York State. Public Works Deputy Superintendent Guy James concurred, based on information that he obtained at a recent seminar ("Freeing Up Energy—Hydraulic Fracturing: Unlocking New York's Natural Gas Resources") that the language of any severance tax legislation be clear that the tax goes back to the locals. Legislator Fanton requested that Mr.

James check with his counterparts in Steuben County to see if they have developed a policy with language that might meet the needs of Allegany County.

Legislator Sinclair also distributed an article from *PD&R Edge*, an online magazine of HUD (Housing & Urban Development), "Tackling the Housing Crisis in Pennsylvania's Boomtowns," to alert Committee members to (and possibly pre-empt) yet another impact fracking could have—this time on housing, noting that it is important for us to know what's going on in other areas, what the impacts have been, and what those areas are doing to mitigate any negative effects. Legislator LaForge reiterated the need to have a good policy in place before the issues arise.

Legislator Sinclair also brought pending NYS Senate Bill 4616 to the Committee's attention. This Bill would amend the Environmental Conservation Law in relation to the uniform treatment of waste. Legislator Sinclair noted that he has become aware that leasing companies are afforded exemptions which excuse them from treating waste the way others are obliged to handle it. Chemicals used in fracking are transported to the site as hazardous materials, mixed with other hazardous chemicals, and injected into the ground; however, when the resulting material is extracted from the ground, it is considered processed water, and not treated as hazardous waste. This is why the new law is being considered.

Legislator Benson was of the opinion that if the law is too restrictive, the drillers would not pursue production because more restrictions add to the cost of production.

Mr. Covert noted that a representative from the DEC (Department of Environmental Conservation) who attended the above-mentioned seminar, assured the participants that the DEC would not issue more permits for drilling than it has staff members to monitor those sites. He also invited Committee members to view a disk he acquired at the seminar which he indicated would be very informative and might answer some of the questions around the table.

Legislator Healy suggested the Committee give more thought to the issues brought up in today's meeting and revisit them at the next meeting.

Allegany County Landowners Can Organize Representative

Allegany County Landowners Can Organize representative Gillian Barber addressed the group, inviting Committee members to attend an upcoming meeting featuring oil and gas attorney Scott Kurkoski who currently represents more than 70,000 New York State landowners. Her group, she noted, continues to work on issues guaranteeing landowners' rights as they pertain to gas/oil drilling, including the issues of commission versus an upfront payment to landowners, length of lease contracts, avoiding companies who ignore environmental issues in favor of profit, and its concern for a severance tax.

Good of the Order

Legislator LaForge distributed a document sent to the Committee from County Planner Kier Dirlam for discussion at next month's meeting: "The Truth about Fracking" from *Scientific American*, November 2011.

Adjournment

There being no further business to come before the Committee, the meeting was adjourned at 12:03 p.m. following a motion by Legislator Healy, seconded by Legislator Sinclair, and carried.

Respectfully submitted,
Cynthia Santora, Secretary to the Clerk of the Board
Allegany County Board of Legislators

ALLEGANY COUNTY REAL PROPERTY HOLDINGS

Tax Map No.	Acres	Land Type	Name/Location	Town
COUNTY FOREST LANDS				
95.-1-5	58	County Forest Lands (1951)	<i>Hooker Lot</i>	Allen
95.-1-11	304	County Forest Lands (1944)	<i>Travis Lot</i>	Allen
159.-1-17	84.4	County Forest Lands	<i>Coleman Lot</i> /SR 244	Amity
159.-1-38	22	County Forest Lands	SR 244	Amity
108.-1-16	108.4	County Forest Lands-Snyder Lot (Land) 1943	<i>Snyder Lot</i> /Common Road	Angelica
121.-1-46	153.6	County Forest Lands (Weir Lot) (1944)	<i>Weir Lot</i> /Common Road	Angelica
121.-1-47	53.8	County Forest Lands (Silsby Lot) (1944)	<i>Silsby Lot</i> /Common Road	Angelica
108.-1-25.13	2.52	County Forest Lands (right of way)	Common Road	Angelica
108.-1-6	39.3	County Forest Lands (Phippen Lot) (1944)	<i>Phippen Lot</i> /Common Road	Angelica
108.-1-27	78.6	County Forest Lands (Engle Lot) (1948)	<i>Engle Lot</i> /England Hill Road	Angelica
121.-1-45	33.9	County Forest Lands (Horner Lot) (1944)	<i>Horner Lot</i> /Breitwiser Road	Angelica
108.-1-3	84.4	County Forest Lands (Pine Lot) (1929)	<i>Pine Lot</i> /East Road	Angelica
108.-1-9	37.5	County Forest Lands (Travis Lot)	<i>Travis Lot</i> /East Road	Angelica
107.-1-20	129.9	County Forest Lands (Horner Lot) (1944)	<i>C. Horner Lot</i> /Horner Road	Angelica
97.-1-1	192.8	County Forest Lands - Dixon Lot (1949)	<i>Dixon Lot</i> /SR 408	Birdsall
72.-1-6	44.5	County Forest Lands - Griffin Lot (1952)	<i>Griffin Lot</i> /Klipnocky Road	Birdsall
72.-1-10	52.8	County Forest Lands - Metz Lot (1951)	<i>Metz Lot</i> /Leith Road	Birdsall
21.-1-7	60.3	County Forest Lands	<i>Neetz Lot</i> /England Hill Road	Grove
22.-1-1	141.8	County Forest Lands	<i>Helmer Lot</i> /England Hill Road	Grove
21.-1-3	104.9	County Forest Lands	<i>Bennett Lot</i> /England Hill Road	Grove
109.-1-20	<u>176.7</u>	County Forest Lands - Engle Lot	<i>Engle Lot</i> /Dowd Road	West Almond

Total Acres: 1964.12

OTHER COUNTY LANDS

Transfer Stations:

133.-1-18.2	2.05	No. 2	Angelica
34.19-1-29.3	1.65	No. 1	Canaseraga
64.3-2.3	3.20	No. 3	Caneadea
181.-1-22.1	10.40	No. 6	Friendship
260.5-1-1.2	200 x 400	No. 7	Richburg
239.13-1-36.2	6.13	No. 4	Wellsville
Total Acres:	23.43		

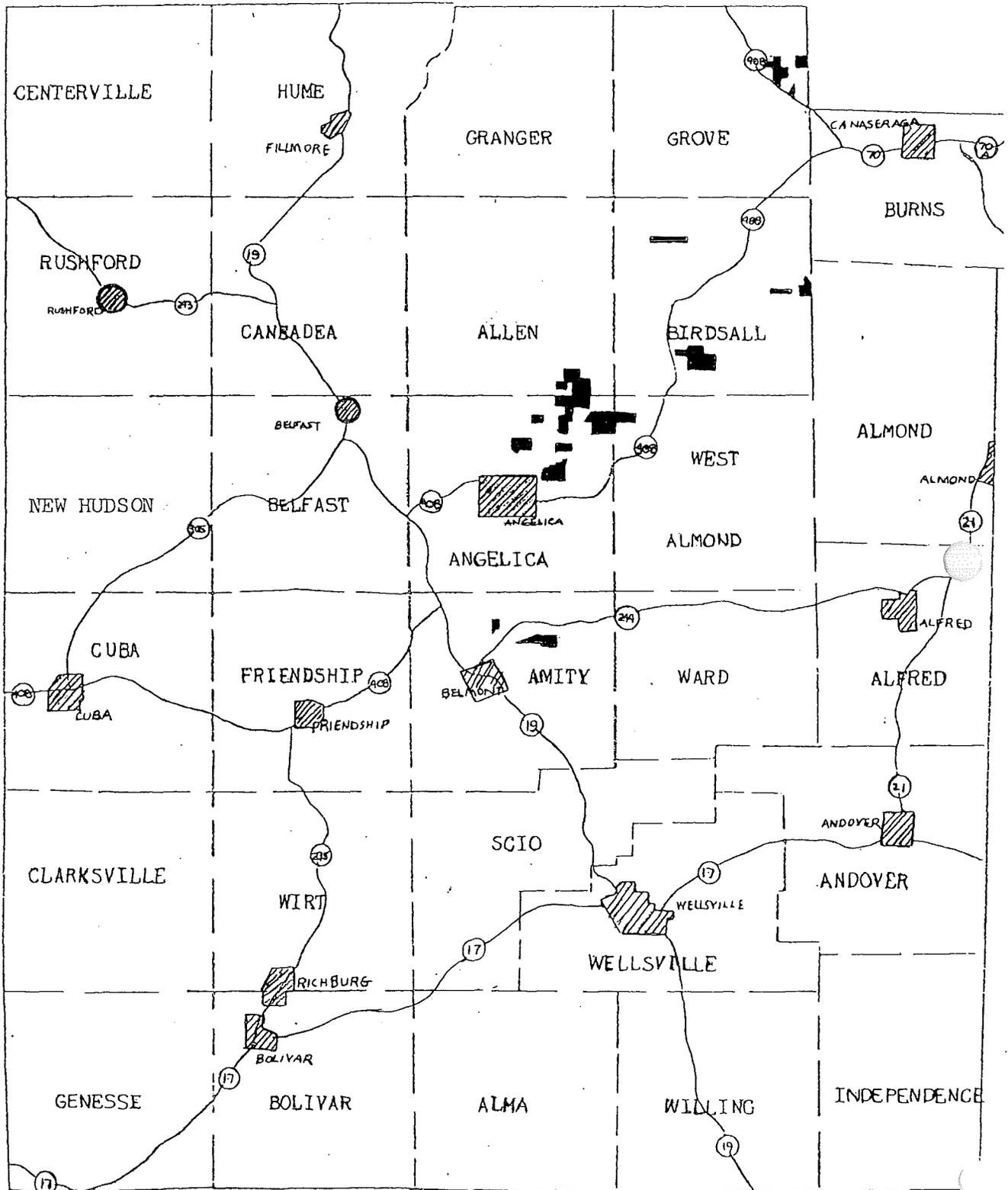
ALLEGANY COUNTY REAL PROPERTY HOLDINGS

		Landfill:		
146.-1-20.11	281.5		CR 48	Angelica
		Public Safety Building site:		
185.-1-82.121	55.74		SR 19	Amity
OTHER COUNTY LANDS-MISC.				
		Allen properties:		
69.-1-22	6.4	Access Road (Road/Str/Hwy)	State Road	Allen
		Almond properties:		
126.-1-52	0.7	Land	CR 11	Almond
		Andover properties:		
229-1-20.2	0.52	Joyce Hill Tower	CR 22	Andover
242-1-7.12	0.07	Land for stockpile purposes	Co Route 30	Andover
		Angelica properties:		
120.17-1-37	1.80	Highway Garage (District 3)	Railroad Avenue	Angelica
107.-1-22.8	2.1	Stockpile	CR 15B (Route 408)	Angelica
		Belfast properties:		
105.1-1-83	13.5	Vacant Land	Next to River-Blades gift to Cty.	Belfast
		Belmont properties:		
172.13-1-66	5.70	Offices and Courthouse (Old Bldg)	7 Court Street	Belmont
172.13-1-24.1	0.24	Historian Office and Storage	Wells Street	Belmont
171.-1-80.22	1.29	Co-Op Offices-2 Story (Church Hunt) (1983)	CR 48	Belmont
159.-1-1.32	11.70	Scalehouse-Record Storage (Valenti)	CR 48	Belmont
172.-1-9	1.40	Utility Building (Soil & Water)	CR 48	Belmont
172.13-1-25	0.03	Training Annex (Beauty Shop)	2 Wells Lane	Belmont
172.13-1-24.2	0.13	Employment & Training	7 Wells Lane	Belmont
172.13-1-60	0.63	House/garage/shed (Tronetti House)	25 Court Street	Belmont
172.13-1-62	0.25	Strip behind houses on Court Street	Court Street	Belmont
159.-1-1.1	48.49	Land (Washer Property)	CR 48	Belmont
Total Acres:	69.86			

ALLEGANY COUNTY REAL PROPERTY HOLDINGS

58.-1-31.2	2.1	Birdsall properties: Highway Garage	CR 15B (Route 408)	Birdsall
192.-1-3.3	1.26	Cuba properties: Stockpile - Empire Cheese	CR 6	Cuba, NY
170-1-14.11	63.2	Friendship properties: Vacant land	Co. Rd. 20	Friendship
183.-1-36	0.6	Stockpile - Drake MFTG	CR 20	Friendship
27.-1-24.23	3.6	Hume properties: Stockpile - Wilmont	CR 4	Hume
142.-1-39	1.7	New Hudson properties: Stockpile - Conrail - Greenway Trail	CR 41	New Hudson
247.17-1-6.3	0.5	Richburg properties: Sand & Gravel	CR 5B	Richburg
76.5-1-77	1.89	Rushford properties: Highway Garage (District 5)	CR 7E	Rushford
224.-1-5.12	0.8	Scio properties: Stockpile	Knights Creek Road	Scio
239.-1-31	NA	Wellsville properties: Land (Road/Str/Hwy)	E. State Street	Wellsville
239.10-3-52	NA	Land (Road/Str/Hwy)	S. Main Street	Wellsville

ALLEGANY COUNTY





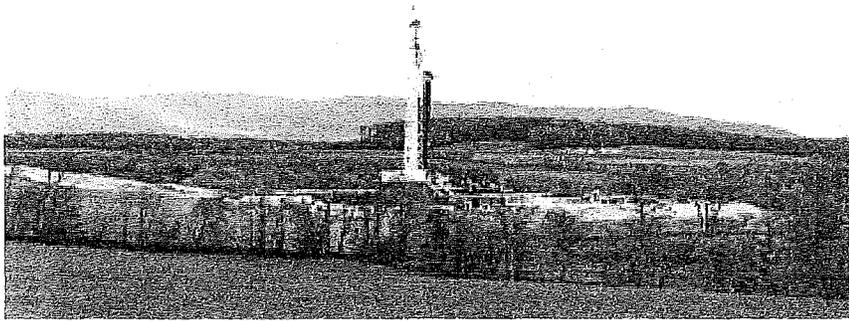
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In Practice

HUD USER Home > PD&R Edge Home > In Practice

Tackling the Housing Crisis in Pennsylvania's Boomtowns



The influx of workers to Pennsylvania's Marcellus Shale region has triggered a housing crisis in many communities. *Image Courtesy of Steve Williams, Penn State College of Agricultural Sciences.*

The production of natural gas since 2005 from the Marcellus Shale formation — a formation buried deep beneath the surface that contains untapped natural gas reserves — is proving to be an economic boon for the state of Pennsylvania. The natural gas fields can be found beneath 60 percent of Pennsylvania's total land mass, stretching from the southwestern portion of the state to the northeast corner. In many parts of the state, the rapidly expanding natural gas industry has created jobs as well as royalties for property owners with wells developed on their land,

spurring the first substantive economic development in years. However, this rapid expansion challenges local governments to deal with a lack of affordable housing.

State Response to Housing Crisis

Counties with the highest drilling activity in southwestern and northcentral Pennsylvania are facing an affordability crisis as an influx of workers caused housing demand to spike amid an already inadequate housing supply. In some of the most supply-constrained areas, rents have tripled over the last few years. And although the effects of the housing shortage have rippled throughout the market, they disproportionately affect low-income residents faced with limited housing options. In response to these growing challenges, the state of Pennsylvania passed legislation in February 2012 that allows local governments to assess impact fees on developers of natural gas wells within their jurisdiction.

Act 13 creates two funding streams for housing: one for local and county governments that adopt the fee and the other for the Pennsylvania Housing Affordability and Rehabilitation Enhancement (PHARE) fund, which was created in 2010

but not funded. The local share is not exclusive to housing and can be used for various community needs, whereas the money allocated to the PHARE fund will be devoted entirely to housing.

In the impact fee's first year, \$50,000 will be assessed for each nontraditional gas well in the Marcellus region drilled before 2012. A portion of the total revenue generated (\$5 million a year) will be directed to the PHARE fund. The Housing Alliance of Pennsylvania estimates that with a steady revenue source the Pennsylvania Housing Finance Agency (PHFA) — which administers the housing fund — could generate up to \$70 million by financing a bond.

Flexible Funding To Address a Range of Housing Needs

In addition to its financial benefits, Act 13 has helped draw attention to the affordable housing crisis, fostering innovative strategies and expanding public-private partnerships across the state. At a housing summit held at Lycoming College in Williamsport, local governments, nonprofit organizations, and developers exchanged ideas about creating housing solutions.

Thinking critically and creatively about the use of the PHARE Fund is essential to informing how the PHFA allocates its resources. The agency is currently asking the public for input about how to allocate Act 13 funds. Because of the complexity of the issue and the diverse challenges facing communities and regions, a one-size-fits-all approach is unlikely. Brian Hudson, executive director of the state's housing finance agency, highlights the responsive role the PHARE fund will play in meeting the needs of local governments. "We are considering numerous strategies, from rental assistance to helping establish community development and faith-based organizations in regions that lack capacity and technical expertise. At this point, nothing that fits within the parameters of the legislation is off the table, and the public comment process is allowing [the PHFA] to vet ideas."

PD&R Edge Archives

**ASSISTANT SECRETARY MESSAGE
ARCHIVE**

FEATURED ARTICLE ARCHIVE

HUDDLE ARCHIVE

IN PRACTICE ARCHIVE

NEWS ARCHIVE

PARTNER REPORT ARCHIVE

RESEARCH ARCHIVE

TOPIC AREA ARCHIVES

Affordable Housing

Community Development

Demographics

Fair Housing

Housing Markets

Neighborhood Revitalization

Rental Housing



Watch Live

Bill No.: S04616

Summary Actions Votes Memo Text *(Printer friendly text)*

S04616 Summary:

BILL NO S04616
 SAME AS Same as A 7013
 SPONSOR AVELLA
 COSPNSR ADAMS, ADDABBO, BALL, BRESLIN, CARLUCCI, DILAN, DUANE, ESPAILLAT, GIANARIS, GRISANTI, HASSELL-THOMPSON, HUNTLEY, KLEIN, KRUEGER, MONTGOMERY, OPPENHEIMER, PARKER, PERALTA, PERKINS, RIVERA, SAMPSON, SAVINO, SERRANO, SQUADRON, STAVISKY, STEWART-COUSINS
 MLTSPNSR
 Amd S27-0903, En Con L

Relates to the uniform treatment of waste from the exploration, development, extraction, or production of crude oil or natural gas.

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S04616 Text:

S T A T E O F N E W Y O R K

4616

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the uniform treatment of waste

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 27-0903 of the environmental conservation law is
- 2 amended by adding a new subdivision 4 to read as follows:
- 3 4. UNIFORM TREATMENT OF WASTE. ALL WASTE RESULTING FROM THE EXPLORA-
- 4 TION, DEVELOPMENT, EXTRACTION OR PRODUCTION OF CRUDE OIL OR NATURAL GAS,
- 5 INCLUDING BUT NOT LIMITED TO DRILLING FLUIDS AND PRODUCED WATERS, SHALL
- 6 BE CONSIDERED HAZARDOUS WASTE UNDER THE LAW OF THIS STATE AND SUBJECT TO
- 7 ALL PERTINENT GENERATION, TRANSPORTATION, TREATMENT, STORAGE, AND
- 8 DISPOSAL LAWS AND REGULATIONS, IF SUCH WASTE MEETS THE DEFINITION OF
- 9 HAZARDOUS WASTE SET FORTH IN SUBDIVISION THREE OF SECTION 27-0901 OF
- 10 THIS CHAPTER. WITHIN SIX MONTHS FROM THE EFFECTIVE DATE OF THIS SUBDIVI-
- 11 SION, THE DEPARTMENT SHALL MAKE ALL NECESSARY CHANGES TO BRING ITS REGU-
- 12 LATIONS INTO COMPLIANCE WITH THIS SECTION.
- 13 S 2. This act shall take effect immediately.

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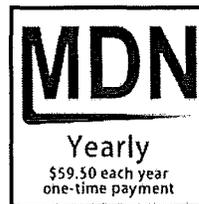
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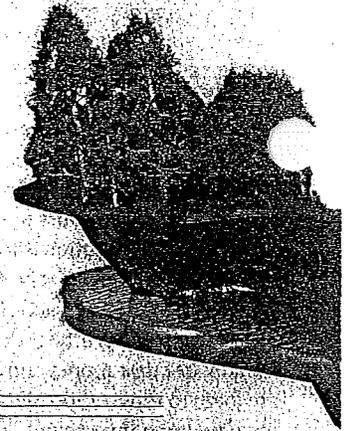
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Chris Mooney is a host of the Point of Inquiry podcast (www.pointofinquiry.org) and author of three books, including *The Republican War on Science*.



ENERGY

THE TRUTH ABOUT FRACKING

Fracturing a deep shale layer one time to release natural gas might pose little risk to drinking-water supplies, but doing so repeatedly could be problematic

By Chris Mooney

IS FRACKING POLLUTING OUR DRINKING WATER? The debate has become harsh, and scientists are speaking out.

Anthony Ingraffea, an engineering professor at Cornell University and an expert on the controversial technique to drill natural gas, has had much to say, especially since he attended a March meeting in Arlington, Va., hosted by the U.S. Environmental Protection Agency. There he met scientists from top gas and drilling companies: Devon Energy, Chesapeake, Halliburton. All had assembled to help the agency determine whether

fracking, accused of infusing toxic chemicals and gas into drinking-water supplies in various states, is guilty as charged. The answer lies at the center of escalating controversy in New York State, Pennsylvania, Texas and Colorado, as well as Australia, France and Canada.

The basic technique of "hydraulic fracturing" has been used in conventional-style wells since the late 1940s. When a vertical well shaft hits a layer of shale, chemically treated water and sand are blasted down at high pressure to crack open the rock and liberate natural

gas. Only recently, however, has the technique been combined with a newer technology called directional, or horizontal, drilling—the ability to turn a downward-plodding drill bit as much as 90 degrees and continue drilling within the layer, parallel to the ground surface, for thousands of additional feet. The result has been a veritable Gas Rush. Sequestered layers of methane-rich shale have suddenly become accessible. The U.S. is estimated to have 827 trillion cubic feet of this "unconventional" shale gas within reach—enough to last for de-

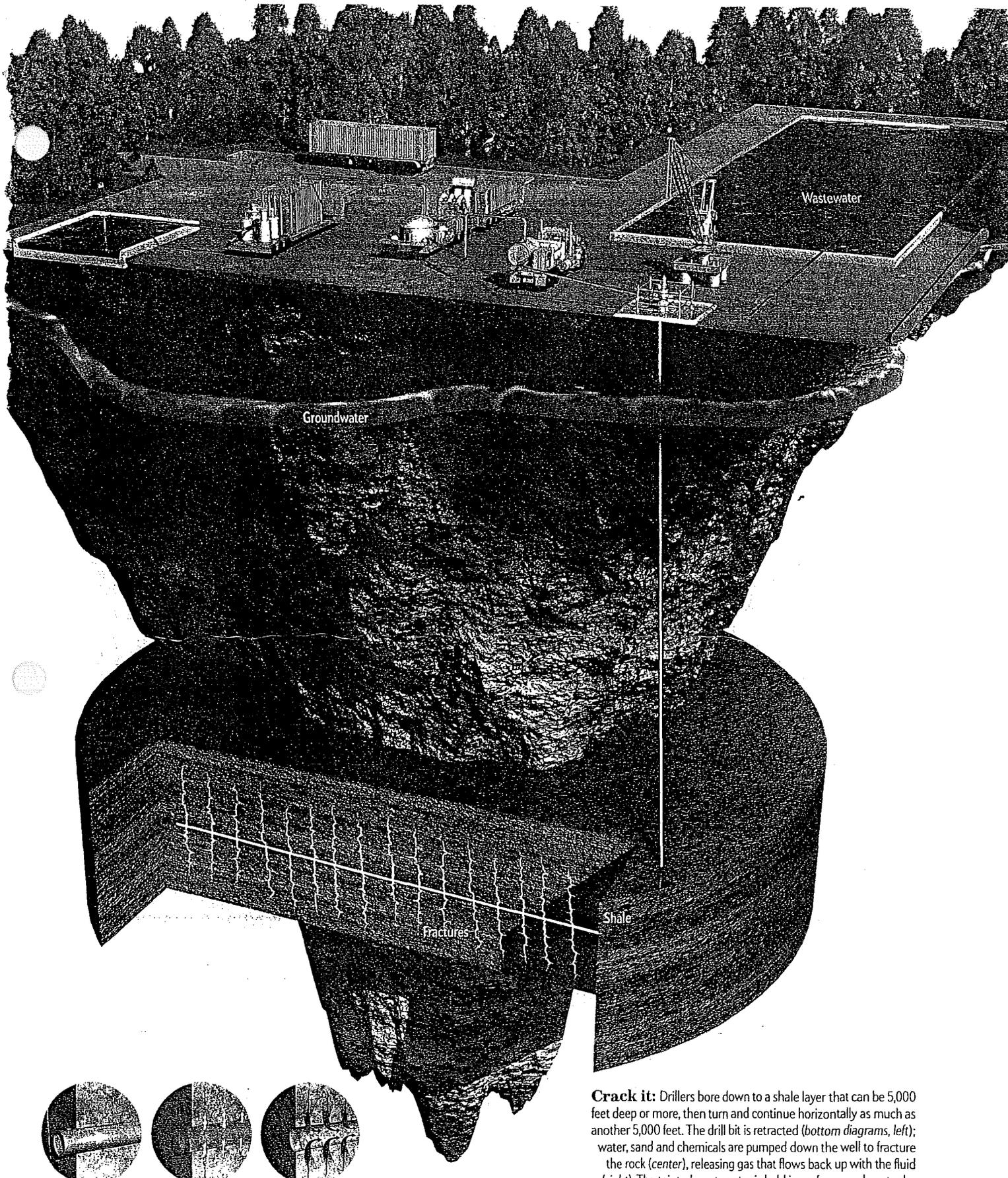
IN BRIEF

If fracking is defined as a single fracture of deep shale, that action might be benign. When multiple "fracks" are done in multiple, adjacent wells, however, the

risk for contaminating drinking water may rise. If fracking is defined as the entire industrial operation, including drilling and the storage of wastewater, con-

tamination has already been found. Advanced tests, such as putting tracer chemicals down a well to see if they reappear in drinking water, could ultimate-

ly prove whether fracking is safe or not. Some regulators are not waiting for better science; they are moving toward allowing fracking on an even wider scale.



Crack it: Drillers bore down to a shale layer that can be 5,000 feet deep or more, then turn and continue horizontally as much as another 5,000 feet. The drill bit is retracted (*bottom diagrams, left*); water, sand and chemicals are pumped down the well to fracture the rock (*center*), releasing gas that flows back up with the fluid (*right*). The tainted wastewater is held in surface ponds or tanks.

cedes—although industry e-mails published by the *New York Times* in June suggest the resource may be more difficult and expensive to extract than companies have been claiming.

The chief hurdle is that unlike fracking of vertical wells, horizontal fracking requires enormous volumes of water and chemicals. Huge ponds or tanks are also needed to store the chemically laden “flowback water” that comes back up the hole after wells have been fractured.

As Ingraffea sat in the room, he watched industry scientists dismiss the idea that fracking has caused polluted water wells and flammable kitchen faucets. After all, the logic goes, the shale layers can be a mile or more deep, separated from shallow aquifers by thousands of feet of rock—precisely why they have been so difficult to tap until now. Fracking may be powerful, but it’s not *that* powerful—not enough to blow open new fissures through that much rock, connecting horizontal well bores (called “laterals”) to groundwater near the surface.

“I saw beautiful PowerPoint slides depicting what they think is actually happening,” says Ingraffea, who previously worked with the global gas supply company Schlumberger but has emerged as a leading scientific critic of the gas rush. “In every one, the presenter concluded it was highly improbable.” Yet, Ingraffea explains, these analyses considered only single “fracks”—one water blast, in one lateral, one time. To maximize access to the gas, however, companies may drill a dozen or more vertical wells, closely spaced, at a single site. They may frack the lateral for each well in multiple segments and perhaps multiple times.

“You’ve got three spatial dimensions and time” to consider, Ingraffea says. He doubts a single lateral frack can connect the shale layers to the surface. Still, he adds, “if you look at the problem as I just described it, I think the probabilities go up. How much? I don’t know.”

GUILT BY DEFINITION

THE SCIENTISTS and regulators now trying to answer this complex question have arrived a little late. We could have used their research *before* fracking became a big controversy. The technique is the cause of political conflict in New York, where the Department of Environmental Conservation recently unveiled a plan to give drilling

companies access to 85 percent of the state’s portion of the Marcellus and Utica Shale formations. Fracking would not be allowed in the New York City or Syracuse watersheds, because those water supplies are unfiltered between source and citizen.

The department based its go-ahead on reviews of various studies and says it plans to tightly regulate any drilling work. The actions essentially replace a previous statewide ban on fracking, despite the fact that the EPA is only midway through a major safety study due in preliminary form in late 2012. The department, unwilling to wait for the EPA’s science, was set to issue its final regulations in October, open to public comment until early December.

The push to drill in New York before the EPA’s results are ready is forcing experts to try to determine which charges against fracking hold some weight and which need new research to address. The answers to this deeply confused issue ultimately depend on competing definitions of “fracking.”

If fracking is taken to refer to the entire process of unconventional gas drilling from start to finish, it is already guilty of some serious infractions. The massive industrial endeavor demands a staggering two to four million gallons of water for a single lateral, as well as 15,000 to 60,000 gallons of chemicals; multiply those quantities by the number of wells drilled at one site. Transporting the liquids involves fleets of tanker trucks and large storage containers.

Then the flowback water has to be managed; up to 75 percent of what is blasted down comes back up. It is laden not only with a cocktail of chemicals—used to help the fracking fluid flow, to protect the pipe and kill bacteria, and many other purposes—but often with radioactive materials and salts from the underground layers. This toxic water must be stored on-site and later transported to treatment plants or reused. Most companies use open-air pits dug into the ground. Many states require the bottoms of the pits to be lined with synthetic materials to prevent leakage. Some also require the pits to be a sufficient distance from surface water. The problem is that even when proper precautions are taken, pit linings can tear, and in heavy rains the pits can overflow. Under the proposed New York rules, only watertight tanks will be al-

lowed to store flowback water, and runoff precautions must be made.

All these processes can cause accidents. “This is not a risk-free industry,” explains Terry Engelder, a hydraulic fracturing expert at Pennsylvania State University who has generally been a proponent of the process but has occasionally criticized companies involved. Indeed, a series of *New York Times* exposés have documented the possible contamination of major Pennsylvania river basins such as the Susquehanna and Delaware because of inadequate handling of flowback water. In Pennsylvania, household taps have gone foul or lit on fire, and companies have been cited and fined. Most recently, the state’s Department of Environmental Protection fined Chesapeake almost \$1 million for contaminating 16 families’ water wells with methane as a result of improper drilling practices.

These kinds of impacts can be blamed on fracking if the term refers to the whole industrial process—but not necessarily if it means just the underground water blast that fractures the rock after the drilling is done. Even the people most steeped in the issues can differ on this basic matter. “There’s a real vulnerability in having chemicals at these kinds of volumes out there, but it’s more an industrial kind of threat, rather than a threat from fracking itself,” argues Val Washington, a former deputy commissioner of New York’s Department of Environmental Conservation. But Cornell’s Ingraffea sees it differently: “I just wish the industry would stop playing the game of ‘fracking doesn’t cause the contamination. You’ve got to drill to frack. It’s a matter of semantics and definition that they’re hiding behind.’”

To show that fracking as *industry* defines it is the problem, you have to examine the alleged threat that is simultaneously the most publicized and yet the most uncertain—the idea that water blasts deep underground can directly contaminate drinking water, by creating unexpected pathways for gas or liquid to travel between deep shale and shallow groundwater.

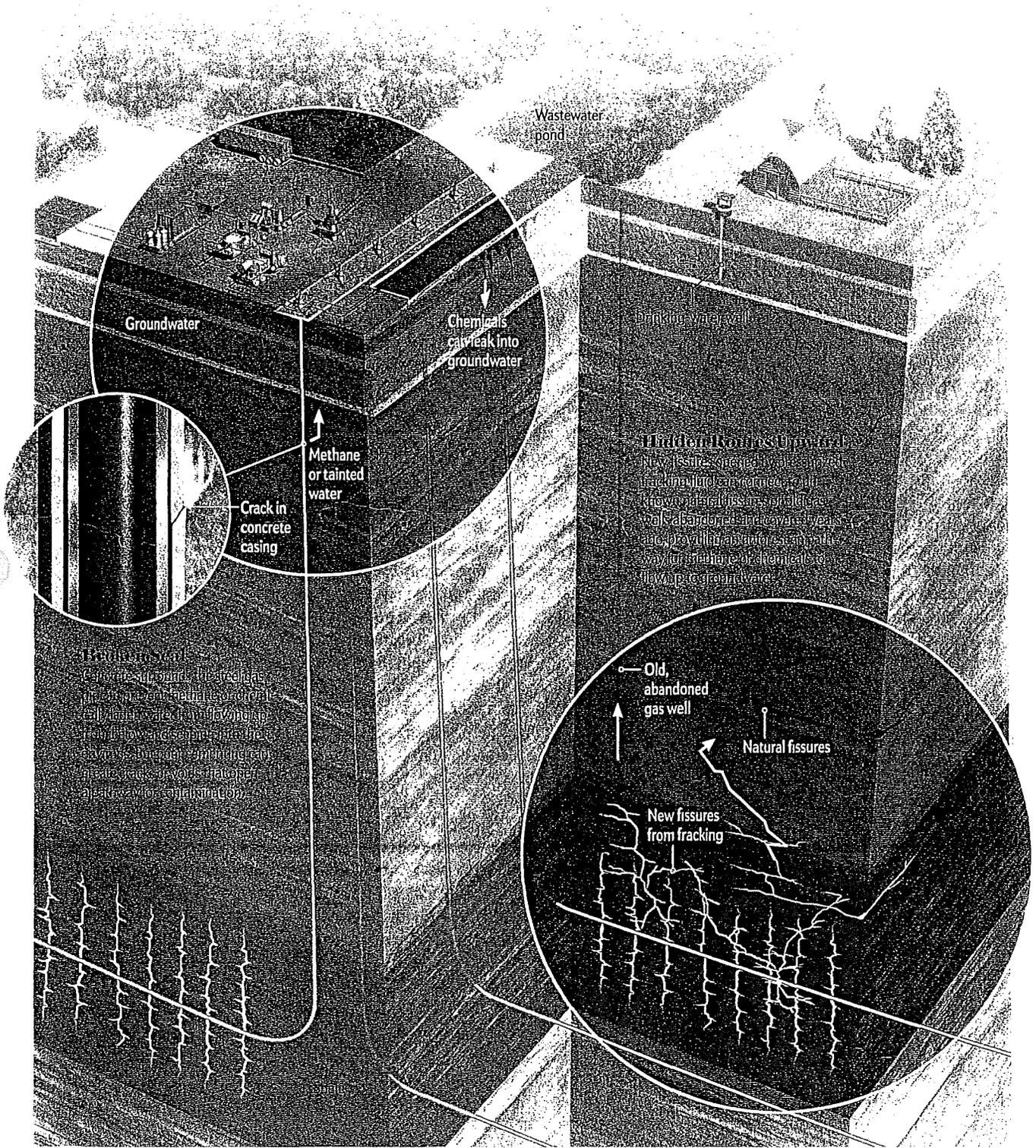
CONCRETE CULPRIT

TO SEE HOW COMPLEX this issue is, consider an EPA enforcement action in 2010 against Range Resources, a Fort Worth-based gas company that plumbs sites in Texas’s famed Barnett Shale. The EPA claimed that two residential drinking-water wells near

Risks to Drinking Water

Once a drill pad and wastewater pond are established, a driller may sink a dozen wells or more to fully tap the shale gas. Three spots may have the greatest potential to contaminate groundwater. Chemical-laden wastewater ponds can leak or overflow (center),

which happened in Pennsylvania in September because of flooding by Tropical Storm Lee. Concrete that encases the vertical pipe can crack (inset, left), and new fissures opened by the fracking can connect to natural fissures or old wells (inset, right).



Fracturing of carboniferous sandstone creates a network of natural fractures. It can also create new fractures and connect them to existing abandoned wells. This can provide a pathway for water, methane, or chemicals to flow up to groundwater.

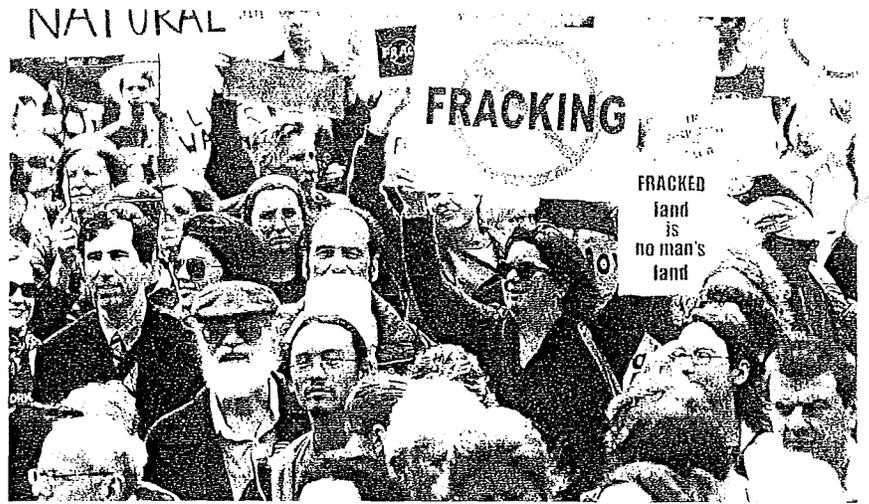
Hidden risks: A network of natural fractures, some of which are connected to old, abandoned wells, can provide a pathway for water, methane, or chemicals to flow up to groundwater.

two of the company's gas wells were contaminated with methane of deep, "thermogenic" origin. That kind of gas originates in shale layers, unlike "biogenic" methane, which is produced by microbes in pockets closer to the surface, where aquifers typically are. The EPA also claimed that one of the wells contained chemicals sometimes used in fracking—such as benzene—and was delivering flammable water.

The EPA ordered the company to provide clean water to the injured parties, to determine if any other nearby wells were contaminated, and to take other steps. Range Resources fought back strongly—disputing in court the claim that it bore any responsibility, noting the "long horizontal and vertical distances" involved. As of mid-September, the legal battle was in a U.S. Court of Appeals. Crucially, however, even if the EPA is correct that Range Resources is at fault, that does not mean fracking deep in the ground caused the problem. The agency asked the company to determine which "gas flow pathways" were involved—and many are possible. Gas could have migrated all the way up from the fracked shale through some unknown route. Or a faulty cement job on the vertical part of the well, much closer to the surface, could have done the trick.

Faulty cementing is the leading suspect in possible sources of contamination, and by industry's definition it is not part of fracking. On the way down, any well has to pass through the near-surface layers that contain groundwater, and it could also pass through unknown pockets of gas. Drillers fill the gap between the gas pipe and the wall of the hole with concrete so that buoyant gas cannot rise up along the outside of the pipe and possibly seep into groundwater. A casing failure might also allow the chemical flowback water, propelled by the pressure released when the shale is cracked, to leak out.

Cementing is the obvious "weak link," according to Anthony Gorody, a hydrogeologist and consultant to gas companies who has been a defender of fracking. Other scientists emphatically agree. "If you do a poor job of installing the well casing, you potentially open a pathway for the stuff to flow out," explains ecologist and water resource expert Robert B. Jackson of Duke University's Nicholas School of the Environment. Although many regulations govern well cementing and although



Tough sell: Strict regulations might be key to winning over citizens who fear unsafe drilling practices, such as demonstrators in Albany, N.Y., who supported a state ban.

industry has strived to improve its practices, the problem may not be fully fixable. "A significant percentage of cement jobs will fail," Ingraffea says. "It will always be that way. It just goes with the territory."

Contamination because of bad cementing has been a long-standing problem in traditional vertical wells, which were fracked at times, too. According to former DEC deputy commissioner Washington, "we've got a lot of wells in western New York that have been producing oil and gas for decades. And fracking was the way to get the gas out of these really hard shales; that has been going on for maybe 20 years." What is different now with horizontal drilling, she says, is that "because of the depths of the gas and the combination of fracking and directional drilling, instead of 80,000 gallons of water it is now millions of gallons per fracking operation," with the big increase in chemicals that go along with it.

UNSAFE AT ANY DEPTH?

POOR CEMENTING accounts for a number of groundwater contamination cases from unconventional gas drilling—including the \$1-million Chesapeake violation. "Methane migration is a problem in some areas. That's absolutely correct," Engelder says. The question is whether any *other* causes exist. If the groundwater problem really turns on cementing, you might argue that fracking as industry defines it gets a pass, and tougher regulations are needed to scrutinize companies as they drill—precisely what New York State now proposes.

The most intriguing work on possible

gas migration is described in a recent paper by Jackson and his colleagues in the *Proceedings of the National Academy of Sciences USA*. It holds something for environmentalists—and industrialists alike. When the hotly debated paper came out, as Jackson jokes, the responses ranged from "you saved my life" to "get a life."

Jackson's team analyzed samples from more than 60 private drinking-water wells overlying the Marcellus Shale in northeastern Pennsylvania and the Utica Shale in upstate New York. Methane existed in 51 of the wells, but wells closer to drilling sites contained considerably more of it. Chemical analyses determined that much of the methane was of the deep, thermogenic kind rather than the biogenic kind of microbes nearer the surface.

None of the samples contained fracking fluids, however, or salty brines consistent with deep shale layers. Jackson therefore thinks the likeliest cause of the contamination was faulty cementing and casing of wells. He notes another possibility: fracking may create at least some cracks that extend upward in rock beyond the horizontal shale layer itself. If so, those cracks could link up with other preexisting fissures or openings, allowing gas to travel far upward. Northeastern Pennsylvania and upstate New York are "riddled with old abandoned wells," Jackson observes. "And decades ago people didn't case wells, and they didn't plug wells when they were finished. Imagine this Swiss cheese of boreholes going down thousands of feet—we don't know where they are."

Yet if methane is getting into drinking

water because of unconventional gas drilling, why aren't the fracking chemicals? Here Jackson and Engelder can only hypothesize. When methane is first released from the rock, enough initial pressure exists to drive water and chemicals back up the hole. That flow subsides rather quickly, however. Thereafter, although gas has enough buoyancy to move vertically, the water does not.

Still, if hydraulic fractures could connect with preexisting fissures or old wells, the chemicals could pose a groundwater risk. Fracking "out of zone" can happen. Kevin Fisher, an engineer who works for Pinnacle Technologies, a Halliburton Service firm, examined thousands of fractures in horizontal wells in the Barnett and Marcellus Shale formations, using microseismic monitoring equipment to measure their extent. Fisher found that the most extreme fractures in the Marcellus Shale were nearly 2,000 feet in vertical length. That still leaves a buffer, "a very good physical separation between hydraulic fracture tops and water aquifers," according to Fisher.

Other engineers read the same kind of evidence differently. In British Columbia, Canada, regulators catalogued 19 separate incidents of "fracture communication"—new wells that ended up connecting with other wells in ways that were not expected. In one case, the communication occurred between wells that were more than 2,000 feet apart. As the British Columbia Oil and Gas Commission warned operators, "Fracture propagation via large scale hydraulic fracturing operations has proven difficult to predict." The agency added that fracture lengths might extend farther than anticipated because of weaknesses in the overlying rock layers.

None of this constitutes evidence that fracturing a horizontal shale layer has directly polluted an aquifer. EPA administrator Lisa Jackson recently stated that no such case has been documented, although she added that "there are investigations ongoing." Absence of evidence is not evidence of absence, however; each site is different. The *New York Times* and the Environmental Working Group recently revealed an alleged contamination case from 1984, which suggested that a fracked well in West Virginia may have intersected with an old, abandoned well nearby, leading to drinking-water pollution. Industry contests the validity of the case.

MORE SCIENCE, TOO LATE?

IMPLICATING OR ABSOLVING fracking, no matter how it is defined, will require more data. That's where the EPA study comes in. The agency is examining a variety of ways in which drilling could contaminate water supplies—from unlined and leaky storage pits, to faulty well cementing, to the possible communication of deep fractures with the surface. The EPA will examine five alleged cases of groundwater contamination to determine the cause, including two in Pennsylvania. The agency will also monitor future drilling activities from start to finish at two additional sites. It will also use computer modeling to simulate what is going on deep underground, where no one can watch.

Ingraffea's advice is to develop a powerful model that can iterate a scenario of multiple wells, multiple fracks, and gas and liquid movements within a cubic mile of rock—over several weeks of drilling. "You're going to need really big supercomputers," he says, to determine the possibility of contamination. "You show me that, and I'll tell you where I stand between 'snowball's chance in hell' and 'it's happening every day.'" At a minimum, Ingraffea says, such models would reveal "circumstances in which gas migration is more possible, more plausible, than other situations."

That kind of model may be difficult to find. The current standard used in academia to simulate underground reservoirs—and the one that the EPA plans to use—is called Tough 2, but Ingraffea says it is not "commercial-grade." Big corporations use their own models, and in his view "the best and the brightest in terms of people, software, instrumentation and data are all in the hands of the operators and the service companies." Ingraffea worries that Tough 2 "would have a tough time handling all the faults and joints and fracture propagation" in detail fine enough to determine whether a discrete new pathway for unwanted flow would emerge.

In the meantime, Gorody and Jackson agree that the EPA should monitor chemistry in drinking-water wells before and after drilling begins at new sites. Chemicals found only after drilling starts would significantly weaken the common industry argument that water was naturally contaminated before drilling arrived but that the residents just didn't notice.

Geoffrey Thyne, a petroleum geologist

at the University of Wyoming's Enhanced Oil Recovery Institute, has another suggestion for sorting out the fracking puzzle: make companies put an easily identifiable chemical tracer into their proprietary fracking fluid mixture. If it turns up where it's not supposed to, that would be a smoking gun. Thyne says introducing a tracer would be "relatively easy," although he adds that "in general, industry does not view this suggestion favorably." The EPA says it is "considering" the use of tracers. The agency also says that much of the information it has received about the chemicals used in fracking has been claimed as "confidential business information" by the companies involved, and therefore the EPA has not made it available to the public. Legislation could change that situation.

Study by the EPA and others may bring clarity to complex, conflicting claims. But new insight may come too late. Fracking "has never been investigated thoroughly," says Amy Mall, a senior policy analyst with the Natural Resources Defense Council. "It's a big experiment without any actual solid scientific parameters guiding the experiment." Yet New York seems convinced that tight regulations will be enough to protect its citizens.

Residents opposed to fracking in New York, Pennsylvania and other states display a common lawn sign: the word "FRACK" in white letters against a black background, with a red circle and line through the word. The irony is, although it is very possible that gas companies have been guilty of carelessness in how they drill wells and dispose of waste, fracking technology itself may be exonerated. The yard signs would be wrong, yet the fears would be right. ■

MORE TO EXPLORE

Methane Contamination of Drinking Water Accompanying Gas-Well Drilling and Hydraulic Fracturing. Stephen G. Osborn et al. in *Proceedings of the National Academy of Sciences USA*, Vol. 108, No. 20, pages 8172–8176; May 17, 2010. www.nicholas.duke.edu/cgc/pnas2010.pdf

Environmental Protection Agency Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources. EPA, February 2011. Available at www.epa.gov/research

Revised Draft Supplemental Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program. New York State Department of Environmental Conservation, September 2011. www.dec.ny.gov/energy/75370.html

SCIENTIFIC AMERICAN ONLINE

For the latest news on fracking, see ScientificAmerican.com/nov2011/fracking

ENERGY & RESOURCES AD HOC COMMITTEE
JUNE 25, 2012
NOT APPROVED

RECEIVED
JUN 26 2012
BY: _____

Committee Members Present: K. LaForge, D. Healy, F. Sinclair, M. Covert, (Absent: G. Benson, G. James)

Others Present: M. Alger, D. Burdick, D. Fanton, K. Graves, T. Hopkins, J. Luckey, J. Margeson, T. Miner, T. Ross, C. Santora

Media Present: No media present.

Call to Order: The meeting was called to order at 11:20 a.m. by Energy & Resources Ad Hoc Committee Chairman Kevin LaForge.

Approval of Minutes

A motion was made by Legislator Healy, seconded by Legislator Sinclair, and carried to approve the Energy & Resources Ad Hoc Committee minutes of May 29, 2012.

New York Times "Trial Balloon"

Legislator LaForge distributed a document printed from the Joint Landowners Coalition of NY web site which contained an article published in the *New York Times* on June 13, 2012, "Cuomo Plan Would Limit Gas Drilling to a Few Counties in New York." The article, which the Committee believed to be a "trial balloon" on the Governor's part, indicated that only those counties bordering Pennsylvania expressing support for fracking would be permitted to drill. The counties indicated in the article were Broome, Chemung, Chenango, Steuben, and Tioga. The question that arose was why Allegany County had not been included in the list. Chairman Crandall indicated that he'd had several conversations regarding this development; that is, why Allegany County was not even contacted, let alone included with those other five counties. Chairman Crandall indicated he had drafted a letter to the Commissioner of the Department of Environmental Conservation and the Governor's Office and talked with Senator Young more than once. Mr. Crandall noted that these letters would be best followed up with phone conversations. He stated that as Chairman of the Board, it was incumbent on him to find out what criteria were used in selecting the five counties mentioned in the article. He also felt it was important to remind the Governor's Office of Allegany County's long history of oil exploration and the large number of County employers tied to the industry. Allegany County's rich history with fossil fuels should also be reiterated and should have at least afforded us to be contacted. Mr. Crandall noted that if it is truly home rule of local municipalities, then it seems odd that five counties could be hand-picked while others were omitted.

Joint Landowners Coalition of New York

Mr. LaForge indicated that Allegany County Landowners Can Organize representative Gillian Barber was scheduled to attend today's meeting, but was unable to do so due to family issues. Mr. LaForge then pointed out on the document he'd distributed earlier, that the map on the front page shows government entities that have enacted positive resolutions or rejected bans/moratoria (indicated with a star symbol) and those areas with bans/moratoria (indicated with a hexagon). Allegany County has both a star and a hexagon on the map, indicating the Town of Alfred's current fracking moratorium. Mr. LaForge's message at this point was that if one is a landowner, and if Allegany County wants to be a "considered county," landowners need

an organization working on their behalf, and the Joint Landowners Coalition of New York seems very proactive. The attorney, Scott Kurkoski, who spoke to the group last month, recently represented 200 landowners versus Chesapeake Energy and won a ruling negating leases that Chesapeake had negotiated in the 1990s with evergreen clauses in them, allowing them to drill for \$3 per acre. Those leases have been overturned. Mr. LaForge noted that IOGA (Independent Oil and Gas Association of New York) is an industry group and opined that they're pro drilling, but not so much in respect to the landowner. He also stated that he believes the Farm Bureau has taken the stance that if fracking can be done safely, it would stand in favor of it. Mr. Covert noted that he believed that the Farm Bureau does not want to say "yes" or "no," but they are not saying "no." He also noted that in his experience, anti-frackers are getting more active. Mr. LaForge reminded the Committee that this "body" must remain neutral on the issue. Mr. Healy noted that many of the periodicals he reads, both farming and general news, often note the positive impact fracking has on the farming industry and the economic well-being of the localities. He also noted that he would share some of these articles at the next meeting.

Chesapeake Energy

Mr. LaForge noted that he felt the Committee should keep an eye on what's going on in the Pennsylvania oilfields. Chesapeake Energy has recently encountered some trouble, and the company and its CEO Aubrey McClendon have "parted company." He also noted that the company's stock values had dropped by about half and he speculated that it might need to sell its Appalachian lease hold which will probably go to Shell Oil. He also noted that Shell has lease hold in Allegany County (Independence) through its acquisition of East Resources.

New Business

Legislator Sinclair distributed a Lycoming College report "Marcellus Natural Gas Development's Effect on Housing in Pennsylvania," asking the Committee to review it, as we should be mindful of the effects such as pricing and availability hydraulic fracturing (hydro fracking) could have on housing in our area, whether or not the drilling is done locally. He particularly cited an example from the report regarding Towanda, PA, where residents were displaced because of fracking workers and because of Hurricane Irene. He cautioned that we must be mindful of possible consequences and be proactive in terms of doing what we can to grab reins of possible housing issues. He also noted that he would like to see the Committee look at shelter development.

Adjournment

There being no further business to come before the Committee, the meeting was adjourned at 11:46 a.m. following a motion by Legislator Sinclair, seconded by Legislator Healy, and carried.

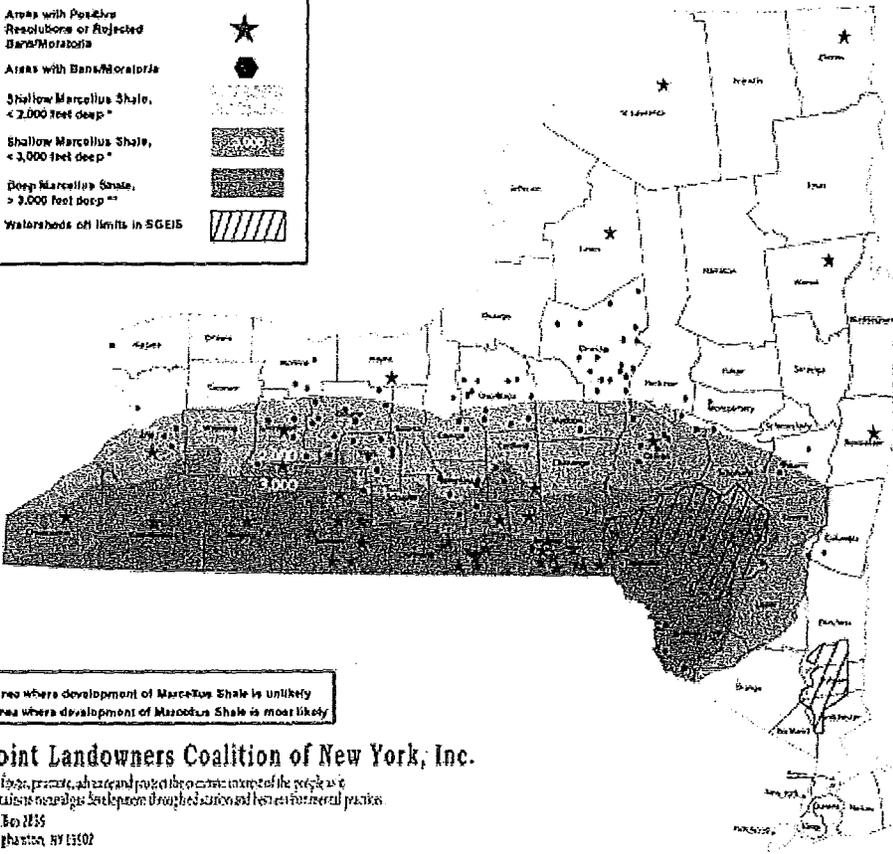
Respectfully submitted,
Cynthia Santora, Secretary to the Clerk of the Board
Allegany County Board of Legislators

JLCNY Land Map 6-8-12

Legend

- Areas with Positive Resolutions or Rejected Bans/Moratoria 
- Areas with Bans/Moratoria 
- Shallow Marcellus Shale, < 2,000 feet deep 
- Shallow Marcellus Shale, < 3,000 feet deep 
- Deep Marcellus Shale, > 3,000 feet deep 
- Waterbodies off limits in SGEIS 

- 2010 Positive Resolution**
- Arcy
 - Ashland
 - Barre
 - Bass
 - Butte
 - Carleton
 - Chazy
 - Chenango
 - Cayuga
 - Holland
 - Kirkwood
 - Lake Luzerne
 - Leicester
 - Lisianski
 - New Bremen
 - Pittsford
 - Saratoga
 - Tioga
 - Town of Windsor
 - Village of Windsor
- 2012 Positive Resolution**
- Beacon
 - Calkins
 - Town of Binghamton
 - Coleville
 - Conklin
 - Kirkwood
 - Lain
 - Saratoga
 - Windsor
 - Chenango
 - Van Etten
 - Saratoga
 - Wilket
 - Delaware
 - Dopert
 - Blount
 - Adisco
 - Bath
 - Jasper
 - Porter Post
 - Woodport
 - Lehigh
 - Berkshire
 - Nichols
 - Spencer
 - Tioga



* Area where development of Marcellus Shale is unlikely
 ** Area where development of Marcellus Shale is most likely

Joint Landowners Coalition of New York, Inc.
 To begin, promote, advance and protect the economic interest of the people who permit the natural gas development through education and better informed practices.
 70 Bay Street
 Binghamton, NY 13902

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Cuomo Plan Would Limit Gas Drilling to a Few Counties in New York



By DANNY HAKIM

Published: June 13, 2012 New York Times

ALBANY — Gov. Andrew M. Cuomo's administration is pursuing a plan to limit the controversial drilling method known as hydraulic fracturing to portions of several struggling New York counties along the border with Pennsylvania, and to permit it only in communities that express support for the technology.

The plan, described by a senior official at the State Department of Environmental Conservation and others with knowledge of the administration's strategy, would limit drilling to the deepest areas of the Marcellus Shale rock formation, at least for the next several years, in an effort to reduce the risk of groundwater contamination.

Even within that southwest New York region — primarily Broome, Chemung, Chenango, Steuben and Tioga Counties — drilling would be permitted only in towns that agree to it, and would be banned in Catskill Park, aquifers and nationally designated historic districts.

The officials spoke on the condition of anonymity because the deliberations in the administration are still continuing.

The strategy has not been made final and details could change, but it has been taking shape over several months. It would be contingent on hydraulic fracturing's receiving final approval from state regulators, a step that is not a foregone conclusion but is widely expected later this summer. Department of Environmental Conservation regulators last year signaled their initial support for the drilling process around the state, with exceptions for environmentally sensitive areas like New York City's upstate watershed.

Since that announcement, the Cuomo administration has been deluged with tens of thousands of e-mails and letters mostly objecting to the process, which is better known as hydrofracking or fracking, and protesters have become a regular presence at the Capitol.

Mr. Cuomo's administration is now trying to acknowledge the economic needs of the rural upstate area, while also honoring the opposition expressed in some communities, and limiting the ire of environmentalists, who worry that hydrofracking could contaminate groundwater and lead to other hazards. The administration had initially expected to allow 75 hydrofracking permits in the first year, but now expects to reduce that to 50.

In fracking, large amounts of sand, water and chemicals are injected deep underground at high pressures to extract natural gas from rock formations.

President Obama expressed support for natural gas drilling in his State of the Union address this year, saying, "The development of natural gas will create jobs and power trucks and factories that are cleaner and cheaper, proving that we don't have to choose between our environment and our economy."

But concerns have persisted about the chemicals used in the process. Last year, for instance, federal regulators linked fracking to a contaminated water supply in part of central Wyoming.

In New York, while more than 100 communities have passed moratoriums or bans on fracking, a few dozen in the Southern Tier and in western New York have passed resolutions in favor of the drilling process.

"A lot of people look at this as a way to save our property," said Dewey Decker, a farmer and the town supervisor of Sanford, in Broome County, just north of the Pennsylvania border. Residents of the town have already leased thousands of acres to a drilling company.



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helped some residents.

He said there were "a lot of people who, when we signed and got the upfront money, were going to be losing their land and couldn't pay their taxes."

The Marcellus Shale is a rock formation that stretches from the Appalachian Mountains into the central and western parts of New York. State regulators believe that by limiting drilling to areas where the Marcellus Shale is at least 2,000 feet deep, risks of contaminating the water supply with toxic chemicals will be reduced. Regulators would require drillers to maintain a 1,000-foot buffer between water sources and the top of the shale formation.

Environmental groups have been divided over whether fracking should be allowed at all. Some mainstream organization have not completely closed the door on the idea of fracking.

"We recognize that gas is going to be part of our energy mix and it's preferable to other types of fuels that are out there," said Rob Moore, executive director of Environmental Advocates of New York. "So it's not really an option to say 'no way' to natural gas. But we're not in a rush to see this resource extracted in New York."

Mr. Moore expressed a number of concerns, like oversight of chemical use and disposal, and the added cost that hydrofracking oversight would create for state and local governments. "If this is going to happen," he said, "we want to make sure it happens to the highest standards and doesn't have the pace and scale of drilling in states like Pennsylvania, where it's been fast and furious, and you've ended up with a lot of problems as a result."

By contrast, smaller, more local groups have been adamant that fracking is inherently unsafe and should not be allowed anywhere in the state.

"Within five years, you'll start to see these chemicals show up in the water system," said Ramsay Adams, executive director of Catskill Mountainkeeper, one of the more vocal opponents of fracking.

Mr. Adams added that he feared pristine regions of New York would be turned over to drilling companies, which would cut down trees, use large trucks and "bring every bad thing you could unleash on people."

The critics have been countered by the industry's considerable lobbying muscle. Ten companies or trade groups that lobbied on fracking and other issues of concern to the natural gas industry spent \$4.5 million lobbying in Albany over the last three years, according to an analysis prepared by the New York Public Interest Research Group.

"Everybody wants groundwater protected and people protected," said James Smith, a spokesman for the Independent Oil and Gas Association of New York. "The industry is very serious about doing this safely here in New York. We know there is a great deal of scrutiny here, and our position is for safe development."

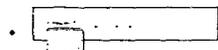
But, Mr. Smith said, "overregulation is going to be a concern."

"If the regulations are too severe, it will limit New York's competitiveness with other states," he added. "Developers won't come here. Landowners won't have the opportunity to mine their resources. Businesses, school districts, tax bases across the state will suffer, too, as a result."

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New York landowners' story portrayed in film



Melissa deCordova, Press Sun Bulletin 6/13/2012

BINGHAMTON – Former Pennsylvania Department of Environment Secretary John Hanger makes his inaugural visit to New York to discuss natural gas issues at 1 p.m. Wednesday at the Holiday Inn at 2-8 Hawley Street in Binghamton.

The event is jointly sponsored by the Joint Landowners Coalition of New York (JLCNY) and the Broome County Farm Bureau. Local elected officials will attend and have an opportunity to ask former Secretary Hanger pertinent questions about regulating and monitoring natural gas development.

The discussion will include a screening of the newly released industry film, "Truthland," in which Hanger appears and which details natural gas development. The JLCNY has announced that it will screen "Truthland" to various groups across the Southern Tier who have been misled by the film, Gasland, by Josh Fox. "Truthland" a short 35 minute movie done by a school teacher in Susquahanna County searching for the truth about hydraulic fracturing for natural gas. Asked by the filmmakers to find someone who could take this journey and telegraph it to thousands of landowners who also wanted to know the truth, JLC President Dan Fitzsimmons said, "I recommended my childhood friend, Shelly, because she had firsthand experience with a gas well on her property; a son who worked for the industry; and because she is originally from New York and wanted to help get the truth out about natural gas issues." In "Truthland," various experts address issues surrounding natural gas development and fracking, such as water, use of chemicals, methane migration, and whether livestock, crops and people are affected. Some experts point out how "Gasland" was misleading and led to erroneous conclusions in an artful and folksy way that encouraged believability.

This nationwide trek mirrors the JLC's journey – whose leaders have combed the Northeast looking for the truth about natural gas development.

"This film validates and vindicates the JLC's 70,000 members who have relied on facts and science and not bumper sticker slogans. We focused on substance surrounding natural gas drilling and while seeing this film and its conclusions makes us angry that so many were led astray, we are empowered to keep pushing for fairness, truth, and our rights back," said Fitzsimmons.

The mission of the JLCNY is to foster, promote, advance and protect the common interest of the people as it pertains to natural gas development through education and best environmental practices. - *Melissa deCordova*

- <http://www.newschannel34.com/news/local/story/TruthLand-Film-Released/7FhL2XAzjE-LURMI4Ei-hg.csp>
- http://www.newschannel34.com/news/local/story/Former-DEP-Commish-Speaks-to-JLCNY/iorT3r_vDUGRO6qrfoHXNQ.csp
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- <http://www.wicz.com/news2005/viewarticle.asp?a=23735>
- <http://fuelfix.com/blog/2012/06/14/idea-of-limited-ny-fracking-divides-energy-camps/>



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Libous, Skelos say drilling In Southern Tier would help economy



3:08 PM, Jun. 13, 2012 |

Written by JOSEPH SPECTOR The Journal news

Senate Majority Leader Dean Skelos and his deputy Thomas Libous praised a potential move forward by Gov. Andrew Cuomo to allow limited hydraulic fracturing in the Southern Tier, saying the drilling would be a boon for the region.

"I think for the Southern Tier of the state, this is a huge potential job creator. If DEC comes out and says it can be done safely, I think we should do it," Skelos, R-Nassau County, said in an interview today with Gannett's Albany Bureau.

Skelos said attempts for a hydrofracking moratorium ban would not be approved in the Senate, despite calls for it by Democrats and even some Republicans, including Sen. Greg Ball, R-Patterson, Putnam County.

"That's what the DEC study is about," Skelos said.

Libous, R-Binghamton, has been a major proponent of fracking, and his district is in the heart of the Marcellus Shale, the gas-rich rock formation. Gannett's Albany Bureau quoted Libous in April saying that the state might target areas of the state in support of hydrofracking, which the New York Times reported Wednesday is being pursued by the Cuomo administration.

But Libous said today that he has concerns that if a town board doesn't approve fracking, it would not go forward—even if landowners want it.

"It's very positive. I'm excited about, but as I've said, I have 30,000 landowners and there may be towns in Broome, Tioga, Chenango counties that haven't taken a formal vote," Libous said of the latest developments. "That doesn't mean we should discount the rights of those 30,000 landowners."

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ENERGY & RESOURCES AD HOC COMMITTEE
SEPTEMBER 10, 2012
NOT APPROVED



Committee Members Present: K. LaForge, G. Benson, D. Healy, F. Sinclair, M. Covert, C. Crandall (Absent: G. James)

Others Present: M. Alger, G. Barber, D. Burdick, D. Fanton, K. Graves, T. Hopkins, J. Luckey, J. Margeson, T. Miner, B. Riehle, C. Santora, A. Van Tyne

Media Present: No media present.

Call to Order: The meeting was called to order at 11:00 a.m. by Energy & Resources Ad Hoc Committee Chairman Kevin LaForge.

Approval of Minutes:

A motion was made by Legislator Healy, seconded by Legislator Sinclair, and carried to approve the Energy & Resources Ad Hoc Committee minutes of June 25, 2012.

Discussion on Hydraulic Fracturing in New York State

Guest speaker Art Van Tyne, a local Geological Consultant, addressed the group regarding the possibilities and opportunities available to Allegany County should NYS Governor Andrew Cuomo's office announce if/where the state will allow hydrofracking of the Marcellus Shale formation. The Marcellus shale runs across the Southern Tier and Finger Lakes regions of New York, in northern and western Pennsylvania, eastern Ohio, and beyond. Although the Marcellus Shale is exposed at the ground surface in some locations in the northern Finger Lakes area, it is as deep as 7,000 feet or more below the ground surface along the Pennsylvania border in the Delaware River Valley. Initially, it was rumored that five NYS counties would be given the green light to begin drilling. The counties that were mentioned included Broome, Delaware, Schuyler, Steuben, and Yates, to the best of their knowledge. It was noted that there is no more shale in some of those areas than there is in Allegany County, leading locals to believe that Allegany County should be included on that list. Mr. Van Tyne said that the issue has been well discussed and is okay with the environmental people. He indicated that Pennsylvania State University Geosciences Professor Terry Engelder initially believed that Allegany County was a viable locale for the drilling, but later changed his mind, saying the shale is too thin here. Other discussion included the information that Charlie Joyce of Wellsville had traveled to Albany to convince those making the drilling decisions that Allegany County should be included among those counties given permission to drill. Mr. Van Tyne also answered questions from the Committee members, instructing them on the nature of condensate (a valuable clear byproduct of drilling), storage field perimeters, and the effects of shallow shale on homeowners, to name a few. Mr. Van Tyne concluded by saying that it's all in the Governor's hands at this time.

Allegany County Landowners Can Organize

Allegany County Landowners Can Organize Representative Gillian Barber addressed the Committee, updating it on the activities of the group. She noted that activities had slowed down somewhat, but that she continued to be concerned about the big oil companies coming in to lease land for wells from people who were not educated on the best way to make a deal for themselves without harming their neighbors. She was adamant that no landowner should commit to a lease for more than three years. She also would advise landowners, not only to become more educated about leases and the promises of the oil companies, but when necessary, to consult with a lawyer they know and trust before signing any contract.

Good of the Order

Flyers were available announcing that Anthony Ingraffea, Ph.D., the Dwight C. Baum Professor of Engineering, School of Civil Engineering, Cornell University, would be speaking in Almond on Wednesday, September 19, 2012. He is scheduled to present an overview and update on the fracking process with a focus on environmental and water safety issues. One of the Committee members opined that Dr. Ingraffea was decidedly on the side against fracking.

Adjournment

There being no further business to come before the Committee, the meeting was adjourned at 12:03 p.m. following a motion by Legislator Sinclair, seconded by Legislator Benson, and carried.

Respectfully submitted,
Cynthia Santora, Secretary to the Clerk of the Board
Allegany County Board of Legislators

An Educational Forum

Presented By

Citizens Concerned About Fracking

HYDROFRACKING and WATER

Wednesday, September 19, 2012

Almond Municipal Building 1 Marvin Lane Almond, NY

7:00 pm

Introduction by **Scott Torrey**

Executive Director - Allegany County Soil and Water Conservation District

Overview of Allegany County Watershed and Aquifers.

.....



Anthony Ingraffea, PHD.

Dr. Ingraffea is the Dwight C. Baum Professor of Engineering, School of Civil Engineering, Cornell University. He is Director of the Cornell Fracture Group and Acting Director of the Cornell Theory Center. He specializes in fracture mechanics. His research concentrates on computer simulation and physical testing of complex fracturing processes. He and his students and research associates have authored over 200 papers in this area. He has been principal investigator in over 35M in R & D projects for many organizations, including Schlumberger and the Gas Research Institute.

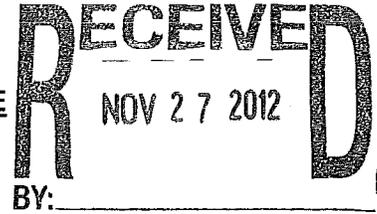
Overview and updates on the fracking process with focus on environmental and water safety issues.

Here is an opportunity for the public to learn more about the fracking process!

Question and answer opportunity.

For more information contact peg.jefferds@gmail.com

ENERGY & RESOURCES AD HOC COMMITTEE
NOVEMBER 26, 2012
NOT APPROVED



Committee Members Present: K. LaForge, G. Benson, D. Healy, F. Sinclair, G. James
(Absent: M. Covert)

Others Present: M. Alger, D. Fanton, K. Graves, T. Hopkins, J. Luckey, J. Margeson, B. Riehle,
C. Santora

Media Present: B. Clark, *Olean Times Herald*

Call to Order: The meeting was called to order at 11:03 a.m. by Energy & Resources Ad Hoc
Committee Chairman Kevin LaForge.

Approval of Minutes:

A motion was made by Legislator Sinclair, seconded by Legislator Benson, and carried
to approve the Energy & Resources Ad Hoc Committee minutes of October 22, 2012.

**Discussion on Matters Relevant to the Marcellus/Utica Shale in New York State and
Bordering States**

Legislator LaForge began the discussion of hydraulic fracking in the Marcellus/Utica
shale areas of the state by noting that New York State had promised a decision regarding
drilling by the end of the year, but so far, no information has been forthcoming. When queried at
a meeting, the NYSAC attorney indicated that a decision would be made by February 2013.

Legislator Sinclair reminded the group that as long as two years ago, Allegany County
had proposed to Potter County (where drilling is occurring) that in the event of a watershed
emergency, Allegany County be notified immediately so it could take action to prevent
contamination of the local water supply. Mr. Sinclair noted that we could shut down the water
intakes at Weidrick Road and use the water in the tanks for several days. Director of Fire and
Emergency Services Jeff Luckey noted that a verbal agreement exists with a Mr. Dunn, the
Emergency Management Director in Potter County, but that no formal, written agreement exists.
Mr. Sinclair noted that personnel changes occur, and that without a written agreement, should
Mr. Dunn leave his position, there is nothing in place to prevent a water emergency in Allegany
County.

A question arose noting that earlier in the year Allegany County had been left off the
"short list" of potential drilling sites. Mr. LaForge indicated that he felt that list was nothing more
than a "trial" balloon, and that Allegany County could still be a fracking location. Another
question arose regarding the reluctance of the fracking companies to reveal the mix of
chemicals in their drilling fluids. If, in fact, these fluids were harmless as claimed, why not be
transparent with the information? It was noted at that time, that for the most part, it is not a
deliberate veil of secrecy to conceal harmful chemicals, but rather a proprietary issue whereby
companies do not wish their competitors to have that information.

Additional questions arose regarding why the issue was sent to the Health Department
team for resolution. Legislator LaForge noted that the team was comprised of members from
outside of New York State as a hedge against partiality. He questioned whether a thorough
review could be completed by February 2013.

Legislator Sinclair also noted that the University of Buffalo had shut down its Shale Resources and Society Institute due to pressure from anti-frackers. However, it was also mentioned that the Institute had been funded by the gas industry and that the favorable reports originating from the Institute had been written by the gas industry. UB President Satish Tripathi, it was noted, indicated at the time that allowing such biased activity was not characteristic of how UB operates and that was the factor that shut down the Institute.

Legislator Sinclair also brought up the issue of road permitting. He reminded the group that Steuben County's road permit policy was structured based on a hierarchy system of roads and that he thought Allegany County was going to "tweak" that policy to reflect our own needs. It was noted that a draft of such a policy had been sent to the towns and villages for them to tweak it for their own road systems, but that not a lot of feedback had been obtained. The question also arose whether the policy should be in place pre- or post- the possible decision to drill in Allegany County. Although there are highway permits in place, they may not adequately address what might occur once the extra traffic starts. It was also noted that new policies should not negatively impact those truckers who currently use our roads to conduct business in the County. Legislator Fanton suggested that the draft policy be resurrected and reviewed. Chairman Crandall noted that in conversations he's been privy to, the towns took on the ownership of this issue with support from their respective counties.

Other topics that arose during the discussion included the fact that anti-fracking candidates performed poorly in New York State in the recent election; the possibility of converting some of the County vehicles to compressed natural gas (CNG); activity in Pennsylvania regarding drilling permits; and the issue of minor punishment/fines for illegal dumping of fracking fluids in road ditches, corn fields, etc. in Pennsylvania and the need for those fluids to be deemed hazardous and for dumpers to be prosecuted as such.

The meeting concluded with Legislator Healy distributing some articles on the topic and Legislator LaForge noting there would be no Energy and Resources meeting in December.

Adjournment

There being no further business to come before the Committee, the meeting was adjourned at 11:45 a.m. following a motion by Legislator Healy, seconded by Legislator Sinclair, and carried.

Respectfully submitted,
Cynthia Santora, Secretary to the Clerk of the Board
Allegany County Board of Legislators