

Prohibiting The Leasing Of Any County-Owned Lands, Including But Not Limited To County Parks For High-Volume Chemical Slick-Water Hydraulic-Fracturing To Extract Natural Gas

Legislators Zimet, Petit, Aiello, Bernardo, Gregorious and Madsen and Co-Sponsors: Legislators Briggs, Donaldson, Hochberg, Lomita, Loughran, Richard Parete, Robert Parete, Provenzano, Rodriguez, Shapiro, Sheeley and Stoeckeler offer the following:

WHEREAS, it is increasingly clear that drilling for natural gas using slick-water hydraulic-fracturing (hydrofracking) may have severe adverse impacts on communities and the environment, and

WHEREAS, the process of pumping chemicals under intense pressure into an underground shale formation to release gas for extraction may contaminate drinking water supplies, including the New York City system in the Catskills, and

WHEREAS, such activity would undoubtedly place added stress on species that may increasingly come under stress from the impacts of climate change, and

WHEREAS, past Governor David A. Paterson had issued Executive Order 41 - Requiring Further Environmental Review of High Volume Hydraulic Fracturing in the Marcellus Shale directing the Department of Environmental Conservation (DEC) to conduct further comprehensive review and analysis of high-volume horizontal hydraulic fracturing in the Marcellus Shale thereby requiring that high-volume, horizontal hydraulic fracturing would not be permitted until July 1, 2011, at the earliest, and

WHEREAS, Executive Order No. 41 does not include low volume vertical hydraulic fracturing which allows 16 wells for every single horizontal well, and utilizes similar toxic compounds to extract gases, and

WHEREAS, similar extraction practices in a township in Susquehanna County, Pennsylvania, contaminated the drinking water supply and subsequent litigation and a settlement of 4.1 million dollars was awarded to the residents, and

WHEREAS any economic boost to the state's economy from development and sale of natural gas from Marcellus Shale is short term at best, and will foreclose the long-term economic benefit to the county of tourism and agriculture, and

WHEREAS, the Ulster County Legislature adopted Resolution 378 - County of Ulster Energy Policy on December 10, 2008, which included minimizing greenhouse gas emissions, that would be impossible to meet if natural gas drilling occurred on County-owned land, and

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Prohibiting The Leasing Of Any County-Owned Lands, Including But Not Limited To County Parks For High-Volume Chemical Slick-Water Hydraulic-Fracturing To Extract Natural Gas

WHEREAS, improving and protecting the quality of life, Open Space and Waterways concluded that increased energy conservation and use of renewable energy are important ways to avert the most catastrophic impacts of climate change, now, therefore, be it

RESOLVED, that Ulster County will not lease any county-owned lands, including but not limited to County park lands, for high-volume, **chemical** slick-water hydraulic-fracturing to extract natural gas, and be it further

RESOLVED, that the Clerk of the Ulster County Legislature shall forward copies of this resolution to Governor Andrew M. Cuomo, Senate Majority Leader Dean G. Skelos, Senate Minority Leader John L. Sampson, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Assembly Minority Leader Brian M. Kolb, New York State Senators John J. Bonacic and William J. Larkin, Jr., New York State Assemblymen Kevin A. Cahill, Clifford W. Crouch, Peter Lopez and Thomas Kirwan, New York State Department of Environmental Conservation Acting Commissioner Joseph Martens, and the New York State Association of Counties,

and move its adoption.

ADOPTED AS AMENDED BY THE FOLLOWING VOTE:

AYES: 30 NOES: 0
(Absent: Legislators Felicello and Shapiro)

Legislator Zimet motioned, seconded by Legislator Madsen to amend the resolution adding the word "chemical" to the title and the first "RESOLVED" and adding New York State Assemblyman Cahill to the second "RESOLVED".

MOTION ADOPTED BY THE FOLLOWING VOTE:

AYES: 30 NOES: 0
(Absent: Legislators Felicello and Shapiro)

Resolution No. 74 March 15, 2010

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FINANCIAL IMPACT:
NONE

0301

STATE OF NEW YORK

ss:

COUNTY OF ULSTER

This is to certify that I, the undersigned Clerk of the Legislature of the County of Ulster have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 15th day of March, 2011, and that the same is a true and correct transcript of said resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 18th Day of March in the year Two Thousand and Eleven.

Is/ Karen L. Binder
Karen L. Binder, Clerk
Ulster County Legislature

Submitted to the County Executive this
18th Day of March, 2011.

Approved by the County Executive this
22nd Day of March, 2011.

Is/ Karen L. Binder
Karen L. Binder, Clerk
Ulster County Legislature

Is/ Michael P. Hein
Michael P. Hein, County Executive

Local Law Number 6 Of 2012

County Of Ulster

A Local Law Of The County Of Ulster, New York Known As The “Hydraulic Fracturing Brine Prohibition Act”

BE IT ENACTED, by the County Legislature of the County of Ulster, New York, as follows:

A new Chapter, Chapter 306 is added to the Code of the County of Ulster to read as follows.

§306-1

Title. This Local Law shall be known by and may be cited as the “Hydraulic Fracturing Brine Prohibition Act”.

§306-2

Definitions. As used in this Chapter, the following terms shall have the following meanings:

“Application” shall mean the physical act of placing Brine on one or more County roads or one or more pieces of County property. Each physical act shall be deemed separate when the person committing the act stopping for any reason the placement of the Brine for any purpose, including but not limited to stopping a vehicle used in the placement of the Brine, stopping work for any reason, re-loading or replacing any material or equipment necessary to apply the brine.

“Brine” shall mean: (a) production brine; or (b) produced waters; or (c) flowback; or (d) flowback fluids; or (e), hydraulic fracturing fluid, any or all, which are generated as a result of drilling for, or seeking gas in wells including but not limited to High Volume Hydraulic Fracturing, as defined herein.

“Commissioner” shall mean: The Commissioner of the Department of Public Works except for the use of the word “commissioner” in Section 306-5 may mean any other commissioner designated by the County Executive or may mean the Commissioner of Public Works as determined by the County Executive.

“Flowback” shall mean liquids and solids produced during initial completion and clean-up of the well or clean-up of a well following a re-fracture or workover.

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“Flowback fluids” shall mean liquids produced following drilling and initial completion and clean-up of the well or clean-up of a well following a re-fracture of workover.

“High Volume Hydraulic Fracturing” shall mean a natural gas well stimulation technique consisting of the injection into the earth of a water and chemical mix with the intent of increasing the ability to extract natural gas from very tight rock.”

“Hydraulic fracturing fluid” shall mean fluid used to perform hydraulic fracturing and includes the primary carrier fluid and all applicable additives.

“Municipality” shall mean the County of Ulster

“Production brine or produced waters” shall mean liquids co-produced during oil and gas production.

“Property” shall mean real property, improved or otherwise, which the County of Ulster owns or controls.

“Roads” shall mean public roads, streets, or bridges owned or controlled by the municipality.

§306-3

Use of Brine prohibited. No Brine shall be applied to or placed upon property or roads of the municipality. In any bid for materials, services, or equipment which relate to property maintenance or road improvements or road construction, the municipality in a bid specification or bid document describing the nature of the services or equipment sought, and any agency or division of the municipality, shall expressly state in capitalized, bold font, “THE PLACEMENT OF BRINE ON ANY ROAD OR PROPERTY OF THE COUNTY OF ULSTER IS UNLAWFUL. ANY BIDDER SHALL FILE A SWORN STATEMENT WITH THEIR BID THAT NO BRINE AS DEFINED BY LOCAL LAW OF THE MUNICIPALITY WILL BE SOLD TO THE MUNICIPALITY AS PART OF THE BID, OR UTILIZED ON OR PLACED ON ANY

PROPERTY OR ROAD OF THE COUNTY OF ULSTER. BIDDERS ARE DIRECTED TO CHAPTER 306 OF THE LAWS OF THE COUNTY OF ULSTER FOR THE DEFINITION OF BRINE.”

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§306-4

Statement to be included in Bid. The Statement provided for in §306-3, which shall be a sworn statement under penalty of perjury, shall read substantially as follows:

“We, _____ hereby submit a bid for materials, equipment, or labor for the _____ of _____. The bid is for bid documents titled _____. We hereby certify under penalty of perjury that no Brine will be used by the undersigned bidder or any contractor, sub-contractor, agent, or vendor thereof in connection with the bid; nor will the undersigned Bidder or any sub-contractor, agent, or vendor thereof and/or therefor apply or supply any Brine to any property or road(s) of the County of Ulster as a result of the submittal of this bid if selected.” The Statement shall otherwise be sworn to under penalty of perjury in a form satisfactory to the County Attorney.

§306-5

Duty of Employees to be Familiar with this Chapter. The County Executive or, at the County Executive’s option, a department head or a commissioner of any Department appointed by the County Executive is authorized to develop policies to ensure county employees are familiar with this Chapter and take such steps as are directed by the County Executive or such department head or commissioner to ensure a diligent effort by the County that materials supplied to the County or used on County roads or property comply with this Law. This shall not excuse non-compliance by a contractor or vendor of the County.

§306-6

Penalties for Violations.

- A. Breach of Contract. A violation of the provisions of this Chapter shall be deemed a breach of contract and shall authorize the Director of Purchasing in cooperation with the County Attorney and any other officer or employee of the County deemed necessary by the County Attorney, commence a civil Breach of Contract action against the violator of the provisions of this Chapter. Damages sought shall be determined by the County Attorney but may include, but shall not be

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limited to the cost of any consequential damages of the breach of contract. In addition, a determination by the Director of Purchasing that the contract was awarded through shall make a finding that the Contractor was not a responsible bidder and shall cause notice of such irresponsibility to be circulated in a form approved by the County Attorney to each other County in New York State. The County Attorney is further authorized to commence any necessary action to enjoin any violation of this Chapter he or she believes to be occurring.

- B. Criminal Penalties. In addition to prosecution for Perjury as determined by the District Attorney, any person who violates this article shall be guilty of an unclassified misdemeanor and subject to a fine not to exceed \$25,000.00 per violation and/or up to fifteen days' imprisonment. Each application of brine shall constitute a separate and distinct violation.

§306-7. Separability. If any sentence, clause, paragraph, subdivision, subparagraph, part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances and the Legislature hereby declares that it would have enacted this article or the remainder thereof had the invalidity of such provision or application thereof been apparent.

§306-8

Effective Date. This act shall take effect 30 days after it shall have been filed with the Secretary of State.