



BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER,
STATE OF NEW YORK

INTRODUCED BY:

HARCKHAM

Resolution No. - 2010

REQUEST TO GOVERNOR AND THE LEGISLATURE OF THE STATE OF NEW YORK TO BAN HYDROFRACKING WITHIN THE CATSKILL AND DELAWARE WATERSHEDS, AND REQUESTING THE GOVERNOR TO IMPOSE A MORATORIUM ON HYDROFRACKING PENDING FURTHER INDEPENDENT SCIENTIFIC ASSESSMENTS AND FINAL REVIEW BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND OTHER RELEVANT GOVERNMENT BODIES TO DETERMINE THE RISKS ASSOCIATED WITH HYDROFRACKING

WHEREAS, New York faces a potential environmental crisis in the form of hydraulic fracturing, known as "hydrofracking", which involves drilling deep horizontal wells into areas of shale, and infusing massive quantities of water and potentially toxic chemicals into wells to fracture the shale and release natural gas; and

WHEREAS, companies are buying land rights from landowners across New York with the expectation that New York State will quickly finalize its environmental review allowing hydrofracking in our region; and

WHEREAS, the proposed state environmental review raises serious questions about the ability of the proposed state permit conditions to protect our natural resources and prevent permanent damage to our environment; and

WHEREAS, the New York State Environmental Conservation Law supersedes local regulation of the gas and solution mining industries, thereby precluding local governments from regulating gas and oil well drilling operations; and

WHEREAS, the inhabitants of Westchester County receive a majority of their drinking water from the unfiltered Catskill and Delaware watersheds; and

WHEREAS, the proposed permit conditions could allow companies to conduct hydrofracking within the Catskill and Delaware watersheds and could fail to provide for adequate protection for the drinking water supply of Westchester County from potential contaminants released during the hydrofracking process; and

WHEREAS, the proposed permit conditions fail to adequately monitor groundwater near gas wells and fail to detect or remediate contamination of aquifers, thereby posing a threat to individual and public supply wells; and

WHEREAS, the proposed permit conditions further fail to provide for an adequate analysis of the chemicals used in the fracking fluids, allowing the use of substances that may be carcinogenic, mutagenic or endocrine disrupters; and

WHEREAS, frequent and heavy truck traffic on poorly paved roads from hydrofracking operations may cause significant damage to water quality within the Catskill and Delaware watersheds by increasing the amount of sedimentation runoff and potential for contamination through truck accidents; and

WHEREAS, the constituents of the flowback water from the hydrofracking operations may be unsuitable and unsafe for disposal at local wastewater treatment plants, resulting in potential holding ponds of toxic waste across New York; and

WHEREAS, the large quantities of water that must be withdrawn for hydrofracking operations pose a serious and permanent threat to our ecosystem, and

WHEREAS, the potential for contamination of municipal and individual well-based drinking water and the potential water quality impacts from the migration of chemicals and improper discharge of wastewater directly to the watershed are causes of deep concern to this legislative body; and

WHEREAS, the potential damage to local landscapes and wildlife is incalculable, and the possible threat to air quality and public health from drilling operations is immeasurable; and

WHEREAS, in comments on the draft environmental review of high-volume hydraulic fracturing the United States Environmental Protection Agency stated it "has serious reservations about whether gas drilling in the New York City watershed is consistent with the vision of long-term maintenance of a high quality unfiltered water supply"; and

WHEREAS, water from the Catskill and Delaware Watersheds is subject to a Filtration Avoidance Determination ("FAD") from the United States Environmental Protection Agency that allows New York City to avoid building a water filtration plant estimated to cost at least \$10 billion to construct and hundreds of millions of dollars to operate annually; and

WHEREAS, should hydrofracking impacts cause the United States Environmental Protection Agency to revoke the FAD the costs of building a filtration plant could be passed on to Westchester consumers; and

WHEREAS, it is necessary to pursue further independent scientific assessments of all aspects of hydrofracking and the United States Environmental Protection Agency initiated such an assessment only very recently; and

WHEREAS, this legislative body recognizes a need for both energy independence and economic vitality within upstate communities but natural gas development must not

endanger the Catskill and Delaware watersheds, which supplies drinking water for eight million individuals; and

WHEREAS, a comprehensive cost-benefit analysis evaluating the proposed Marcellus Shale natural gas development in New York State has not been completed; and

WHEREAS, New York State's recently expressed intent to conduct site-specific environmental review for hydrofracking projects within the Catskill and Delaware watersheds does not remove the above serious risks, but only defers consideration of those risks to a later date to facilitate the issuance of drilling permits in other parts of the State; now therefore be it

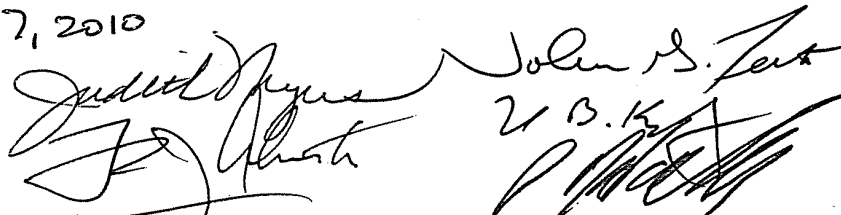
RESOLVED, that this Westchester County Board of Legislators hereby requests the state to impose a moratorium on hydrofracking operations pending completion of further independent scientific assessments and final review by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation, and other relevant government bodies, and be it further

RESOLVED, that this Westchester County Board of Legislators hereby requests that the state ban hydrofracking operations within the Catskill and Delaware watersheds; and be it further

RESOLVED, that this Westchester County Board of Legislators hereby further requests that the Honorable David A Paterson, Governor, withdraw from SEQRA review the Draft Supplemental Generic Environmental Impact Statement On The Oil, Gas and Solution Mining Regulatory Program- Well Permit Issuance for Horizontal Drilling And High-Volume Hydraulic Fracturing to Develop the Marcellus Shale and Other Low Permeability Gas Reservoirs, pending further independent scientific assessments to determine the aggregate protection provided therein concerning the public health, environment and economy of New York State, and, be it further

RESOLVED, that the Clerk be and is hereby authorized and directed to send a certified copy of this resolution to U.S. Senators Charles Schumer and Kirsten Gillibrand; U.S. Representatives Nita Lowey, Eliot Engel, and John Hall; New York State Governor David Paterson; New York State Senators Jeff Klein, Andrea Stewart-Cousins, Ruth Hassell-Thompson, Suzi Oppenheimer, and Vincent L. Leibell, III; New York State Assembly Members Gary Pretlow, Amy Paulin, Sandra Galef, George Latimer, Richard Brodsky, Michael Spano, Robert Castelli and Greg Ball; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of New York State Senate and Assembly; Westchester County Executive Robert Astorino; the New York State Department of Environmental Conservation; the New York State Department of Health; New York State Governor candidates Andrew Cuomo and Rick Lazio, and to such other persons as the Clerk, in her discretion, may deem proper in order to effectuate the purpose of this resolution.

June 7, 2010


COMMITTEE ON ENVIRONMENT & ENERGY

LOCAL LAW INTRO. NO. -2012

A LOCAL LAW adding a new Chapter 532 to the Laws of Westchester County in relation to the sale, application and disposal of waste associated with natural gas exploration and extraction activities.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 532 is hereby added to the Laws of Westchester

County to read as follows:

Chapter 532

HYDRAULIC FRACTURING

Section 532.01. Definitions.

Section 532.02. Prohibitions.

**Section 532.03. Provision to be included
in bids and contracts
related to the construction
or maintenance of County
roads.**

**Section 532.04. Duty of Employees to be
Familiar with this
Chapter.**

Section 532.05. Penalties.

Section 532.06. Severability.

Section 532.01. Definitions.

1. As used in this Chapter the term “hydraulic fracturing” shall mean the fracturing of shale formations by man-made fluid-driven techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.

2. As used in this Chapter the term “natural gas extraction activities” shall mean all geologic or geophysical activities related to the exploration for or extraction of natural

gas or other subsurface hydrocarbon deposits, including, but not limited to, core and rotary drilling and hydraulic fracturing.

3. As used in this Chapter the term “natural gas waste” shall mean any waste which is generated as a result of natural gas extraction activities, which may consist of water, chemical additives, or naturally occurring radioactive materials (“NORMs”) and heavy metals. Natural gas waste includes, but is not limited to, leachate from solid wastes associated with natural gas extraction activities.

4. As used in this Chapter the term “application” shall mean the physical act of placing or spreading natural gas waste on any road or real property located within the County of Westchester.

Section 532.02. Prohibitions.

1. The introduction of natural gas waste into any wastewater treatment facility within or operated by the County of Westchester is prohibited.

2(a). The sale of natural gas waste within the County of Westchester is prohibited.

(b). The application of natural gas waste on any road or real property located within the County of Westchester is prohibited.

Section 532.03. Provision to be included in bids and contracts related to the construction or maintenance of County roads.

1. All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain a County road shall include a provision stating that no materials containing natural gas waste shall be provided to the County.

2. All bids and contracts related to the retention of services to construct or maintain a County road shall include a provision stating that no materials containing natural gas waste shall be utilized in providing such a service.

Section 532.04. Duty of Employees to be Familiar with this Chapter.

The County Executive or, at the County Executive's option, any Department head or commissioner appointed by the County Executive is authorized to develop policies to ensure county employees are familiar with the provisions of 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 Section shall not excuse non-compliance by a contractor or vendor of the County.

Section 532.05. Penalties.

Any violation of Section 532.02 of this Chapter shall be an unclassified misdemeanor punishable by a fine not to exceed \$25,000.00 per violation and/or up to thirty days' imprisonment. Each sale and/or application of natural gas waste shall constitute a separate and distinct violation.

Section 532.06. Severability.

If any clause, sentence, subparagraph, subsection or section of this Chapter shall be held invalid by any court of competent jurisdiction, or the application of this Chapter to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subparagraph, subsection, section, or operation of this Chapter directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this Chapter are hereby declared to be severable.

§2. This Local Law shall take effect in sixty days.