



P.O. Box 103  
Fremont Center, NY 12736

July 22, 2010

Hon. Andrew Cuomo  
Office of the Attorney General  
The Capitol  
Albany, NY 12224-0341

Dear Mr. Cuomo,

Members of Catskill Citizens for Safe Energy were pleased to have the opportunity to turn out and hear you speak when you visited Monticello last week. We look forward to the fall campaign and hope to be able to lend you our support in November.

Catskill Citizens is a volunteer grassroots organization with over 3,000 members in western New York. We are one of many citizens groups that have organized over the past two years because of widespread concern that unconventional shale gas extraction utilizing high-volume hydraulic fracturing (HVHF) may seriously impact public health, our natural resources, and important sectors of our local economy.

As you may know, hydraulic fracturing or "fracking" involves injecting huge quantities of toxic fluids into the ground to extract natural gas from shale formations. The process has been linked to numerous instances of water contamination and human health problems throughout the country. (Some of these incidents have been catalogued by Riverkeeper, Inc., in "Impacts and Incidents Involving High-Volume Hydraulic Fracturing from Across the

Country” (<http://catskillcitizens.org/learnmore/RIVERCASES.PDF>) and in “Incidents Where Hydraulic Fracturing Is a Suspected Cause of Drinking Water Contamination,” by Amy Mall ([http://switchboard.nrdc.org/blogs/asmall/incidents\\_where\\_hydraulic\\_frac.html](http://switchboard.nrdc.org/blogs/asmall/incidents_where_hydraulic_frac.html)).

Given this history of contamination and the absence of scientific data on the short and long-term effects of chemical injection on drinking water supplies, we think it is imperative that New York State proceed with caution as it decides how and when to develop its shale gas reserves. The EPA is presently conducting the first credible peer-reviewed scientific study of fracking and drinking water safety; New York should await the outcome of this study before allowing drilling to get underway.

Also, as industry representatives readily acknowledge, the technology of shale gas extraction is constantly evolving. A director of Corporate Development for Chesapeake Energy recently said “We aren’t doing anything today the way we were two years ago.” And another industry insider described drilling operations in Pennsylvania as a “statewide experiment.” We don’t find these claims at all reassuring. If it’s an experiment, it’s one gone wrong:

- Water wells in Dimock, PA, have been contaminated for over a year and a half. Residents are trapped in homes they can never sell because no one will pay a dime for a house without water.
- The water supply for the city of Pittsburgh has been repeatedly contaminated with elevated levels of total dissolved solids (TDS’s) due to the disposal of huge quantities of drilling waste fluids in the Monongahela River.
- Rivers and streams have suffered fish kills that have been attributed to the improper disposal of fracking fluid.
- Fracking fluid contaminated drinking water supplies in McKean County.
- State forests have been fragmented and scarred by poorly regulated drilling operations.

- Livestock have been quarantined after being exposed to toxic fluids.

New York should take the time to learn from the mistakes, and the technological advances, that are being made in Pennsylvania—it cannot afford to become the industry’s next “statewide experiment.”

It is important to note that HVHF has *never* been permitted in New York State and that our rules and regulations are inadequate to deal with this new technology.

The DEC has been charged with developing new ground rules for unconventional drilling, but it has been disheartening to find that its 809 page Draft Supplemental Generic Environmental Impact Statement failed to propose *a single new regulation* to govern HVHF. The new permitting conditions proposed in the Draft can be easily changed with little public or legislative oversight. There are no substitutes for laws and regulations that can assure that public health is protected.

The Draft is also legally insufficient. It fails to fulfill the requirements of SEQRA because it fails to consider cumulative impact and worst-case scenarios. And even if these defects are addressed in the final version of the SGEIS, the public is still entitled to comment on these key aspects of departmental policy. That means, at the very least, an amended Draft must be subjected to a second public-comment period.

And before our Department of Environmental Conservation can reliably regulate an unprecedented level of new drilling activity, a structural defect within the department must be addressed. While the DEC is charged with protecting our environment, it also insists that it is required to vigorously promote natural gas extraction. These two goals are clearly incompatible. If drilling is to be safely regulated, the DEC must concentrate on its core mission of environmental protection and get out of the business of promoting the interests of the gas corporations. In the aftermath of the oil-rig explosion in the Gulf, the Interior Department belatedly realized that it needed to separate the departmental division responsible for drilling safety from the division responsible for the collection of oil and gas revenues. New York State should undertake the same sort of reform, without waiting for a drilling disaster of its own.

And finally if the DEC is to have any credibility, it must have new leadership.

- As the gas rush was getting underway in New York, the department was deceiving the public by claiming fracking fluid contained only “fresh water, sand, nitrogen, and a diluted soapy solution.” Of course we now know that it also contains dozens of neurotoxins and cancer-causing chemicals, but the DEC only admitted this after it was, in effect, outed by independent scientists and investigative journalists.
- The department also tried to grease the skids for high-volume hydraulic fracturing by repeatedly insisting that fracking, and horizontal drilling have been going on in New York for years. This was another deliberate deception. Previous fracking operations in New York have used tens of thousands of gallons of fluid, not the millions of gallons that are needed to develop each Marcellus well. The unconventional extraction planned for the Marcellus no more resembles conventional wells than a Model T resembles a Maserati.
- In the summer of 2008 the Department was instrumental in passing a new well-spacing bill that was essential for shale gas extraction. This so-called “Department backed bill” was passed late at night on the last day of the legislative session with little debate and almost no opportunity for public comment. Commissioner Grannis later angered Chairman James Gennaro and other members of the New York City Council Environmental Conservation Committee by blandly insisting that it was merely a “technical program bill” without implications for the New York City watershed or the rest of New York.

Incredibly, after two years of deceptive and feckless leadership, the tired team of Commissioner Pete Grannis and Division of Mineral Resources Director Bradley Field is still running the show at the DEC.

If the DEC has failed New Yorkers, our elected officials haven't done much better. When you spoke in Monticello, you remarked that the political process in Albany is broken. We've certainly seen that as it pertains to gas drilling. Two years after it enacted the well-spacing bill, the legislature has failed to pass a single bill to protect the public from any of

many hazards associated with this new industrial process. Important matters such as bonding, liability, water testing, and waste fluid disposal have been addressed by some very good bills, but not a single one of them has been brought to the floor for a vote.

And other important matters haven't been addressed even in pending legislation. For example, New York is only one of three states without a severance tax, and this is one reason New York simply cannot afford to responsibly oversee drilling operations at this time. If shale gas extraction is to be permitted, then a severance tax must be in place *before* the first well goes into the ground. (Texas has a 7.5% severance tax and its residents don't pay school tax.)

Much has been made of the supposed economic benefits that HVHF will bring to New York, but there's good reason to suppose that these benefits may be illusory. In her 2010 study, "Unanswered Questions About the Economic Impact of Gas Drilling in the Marcellus Shale: Don't Jump to Conclusions" (<http://catskillcitizens.org/learnmore/bartheco.PDF>), economist Jannette Barth, Ph.D., takes a hard look at the gas-drilling regions of New York, Pennsylvania, and several western states and fails to find the evidence that these areas actually benefited from gas extraction. And those of us in the Catskill region have particular reason to be concerned, because our local economy is heavily dependent on agriculture, tourism, and the second-home market. All of these important economic sectors stand to be severely hurt by the rapid industrialization of our rural region.

The next governor of New York is going to face immense challenges, not the least of which is a yawning budget deficit, but that is no reason to throw caution to the winds and open the floodgates to dangerous and poorly regulated hydraulic fracturing. High-volume hydraulic fracturing is not ready for prime time, and that means it's not ready for New York State. We hope that as a leader of the Democratic Party in New York, and as candidate for governor, you will use your power and influence to support a cautious, science-based approach to HVHF. We ask you to speak out in favor of a moratorium on HVHF until the DEC, the legislature, and a new administration have had the opportunity to chart a course that will safeguard all New Yorkers.

We would appreciate an opportunity to meet with you to discuss our concerns and also hear your thoughts on this issue that is of overriding importance to many of us who live in the shale regions of New York and to the millions more who depend upon this region for their drinking water.