

## WESTCHESTER COUNTY BOARD OF LEGISLATORS

### COMMITTEE ON ENVIRONMENT & ENERGY

#### MINUTES: May 17, 2010

MEMBERS: Chair: Harckham; Legislators: Abinanti, Kaplowitz, Myers, Rogowsky, Testa.

IN ATTENDANCE: STAFF: C. Crane, W. Wild; GUESTS: Hon. J. Nonna, Hon. A. Williams; K. Delgado (CEO); G. D'Agrosa (WCDP); J. Smith (IOGA-NY); J. Conrad (Conrad Geosciences); C. Cunningham (FCWC); C. Michaels (Riverkeeper); E. Weininger (Grassroots); M. Wallach (CCE) [list of other attendees on file]

VIA TELEPHONE: Exec. Deputy Comm'r. Stuart Gruskin (NYSDEC); Dep. Comm'r. Carter Strickland, Jr. (NYCDEP); Brad Gill (Exec. Dir., IOGA-NY); Hon. Connie Coker (Rockland County Leg.)

Committee on Environment & Energy called to order at 3:05 pm.

Item(s) Discussed: **Marcellus Shale Gas Development**

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Chair Harckham opened the meeting with renewed committee discussion on proposed natural gas development of the Marcellus Shale. The discussion commenced with Mr. Gruskin, who provided an overview of NYSDEC's environmental review (Supplemental GEIS) for the proposed high volume hydraulic fracturing process associated with natural gas drilling in the Marcellus Shale. He also stated that proposed natural gas drilling in the Catskill and Delaware watersheds (NYC water supply) and for Skaneateles Lake (Syracuse water supply) will undergo individual environmental review outside of the SGEIS. NYSDEC is in the process of reviewing comments on the SGEIS, developing a comments responsiveness summary, and issuing a revised SGEIS.

Chair Harckham inquired about the potential regulatory overlap with various river commissions. Mr. Gruskin replied that such commissions regulate water consumption for commercial or other non-drinking water purposes (e.g., water withdrawals), and this is distinct from NYS jurisdiction on natural gas drilling. Chair Harckham asked how NYSDEC's commitment to separate environmental review, as Mr. Gruskin described. Mr. Gruskin stated that the SGEIS will only apply to areas that are not watersheds with filtration avoidance determinations (FADs). Leg. Rogowsky asked why NYSDEC had

not simply prohibited drilling in the specific watersheds at the outset rather than conducting bi-furcated environmental review procedures. Mr. Gruskin stated that the potential for private property takings issues caused the NYSDEC to question whether there was sufficient administrative basis for NYSDEC to implement a prohibition.

Mr. Strickland then addressed the Committee and invited interested persons to view materials at NYCDEP's website at <http://www.nyc.gov/dep>. NYCDEP submitted SGEIS comments, with the assistance of a joint venture led by Hazen & Sawyer. NYCDEP's concerns primarily include the following: i) the public water supply that could be affected services a significantly large population (approx. half of NYS), ii) if FAD is lost because of contamination, this would trigger very expensive capital projects, and iii) potential changes in land use could impact NYCDEP's land use efforts such as land purchases. NYCDEP also appreciates NYSDEC's recent bi-furcation of environmental review procedures. In response to Chair Harckham's question regarding any applicable NYCDEP watershed rules that might affect the proposed drilling, Mr. Strickland stated that NYCDEP was pre-empted by in regulating mineral extraction.

Mr. Gill then addressed the Committee. He noted the industry's safety record of the gas drilling in New York and expressed that many provisions of the resolution did not appear based in science. Chair Harckham inquired about environmental concerns that have been raised on the hydraulic fracturing and drilling processes. Mr. Conrad stated the injection of drilling fluids occurred far below the drinking water aquifers, and this removes the potential for water contamination, along with proper casing of wells with concrete (or other materials). He stated the high volumes of water in the hydraulic fracturing process primarily stay in the shale formation and do not migrate.

Upon Chair Harckham's question referencing Army Corps of Engineers concerns on high total dissolved solids (TDS) in some Pennsylvania water bodies, Mr. Conrad stated that high TDS is associated with brine fluids that accompany drilling, and no New York permits will issue if applicants can not demonstrate adequate treatment. Mr. Conrad stated that industry is trying to maximize recycling of wastewater in the drilling process in order to minimize volumes treated. Any offsite treatment would utilize special procedures (e.g., crystallization). Leg. Kaplowitz and Leg. Abinanti asked whether there are any cost-benefit analyses for the proposed Marcellus Shale

development. Mr. Gill noted that IOGA-NY is a group of independent gas and oil producers, many of which are small companies, and such studies are largely beyond the resources of their association.

Chair Harckham closed the discussion by thanking participants and noting that discussion would occur at a future committee meeting. Upon the motion of Leg. Kaplowitz, seconded by Leg. Rogowsky, the Committee voted to adjourn (all in favor). The meeting ended at approximately 4:30 p.m.

[audio recording of the meeting is on file]