

RESOLUTION NO. 40

TITLE: PROPERTY RIGHTS REPARATIONS ECONOMIC DEVELOPMENT/WATERSHED AFFAIRS

WHEREAS, Delaware County is a strong proponent of property rights; and

WHEREAS, 53% Delaware County's land base is in the New York City (City) Watershed; and

WHEREAS, the Marcellus Shale Natural Gas Play underlies all of Delaware County; and

WHEREAS, Delaware County, in Resolution 217-2009 supported the drilling for natural gas in the Marcellus Shale on the condition that state and federal regulations thoroughly address environmental concerns with sound science along with regulatory safeguards to minimize the risk for pollution as local concerns regarding the protection of infrastructure and water supplies; and

WHEREAS, in the initial draft of the Supplemental Generic Environmental Impact Statement (SGEIS) that was released in September 2009, the New York State Department of Environmental Conservation (DEC) acknowledged that high-volume hydraulic fracturing operations as part of natural gas development did not have a unique impact on surface water supplies. DEC asserted that through proper controls the impacts to surface water supplies could be mitigated and those resources protected. DEC did not propose to prohibit natural gas drilling in any surface water watershed including NYC's watershed; and

WHEREAS, in its Revised Draft SGEIS, the DEC has changed directions. DEC now proposes to adopt regulations based upon its Revised Draft SGEIS that prohibit natural gas mining with high-volume hydraulic fracturing operations in the New York City watershed and in a protective 4,000 foot buffer area around that watershed in addition the 1,000 foot setback from NYC subsurface infrastructure ("Natural Gas Mining Prohibition"); and

WHEREAS, the DEC Commissioner clarified that the real reason that natural gas drilling was being prohibited in NYC Watershed was the potential economic impact of filtration. He stated as follows: *"But it's the fact that they both get a Filtration Avoidance Determination ("FAD") from the Federal EPA and those determinations are delicate ones, they review everything that happens in those watersheds – if they don't get that FAD they would have to filter and in the case of New York City that's a \$9 billion proposition. So, it's not the spills or the prospect of spills or contamination that we're most concerned about it's the fact that just the mere activity related to hydraulic fracturing and that industrial activity could swing the FAD the other way toward disapproval";* and

WHEREAS, the Natural Gas Mining Prohibition would prohibit gas drilling in the City watershed in Delaware County taking landowner property rights on 503,000 acres; and

WHEREAS, the State Revised Draft SGEIS proposes a prohibition drilling outside the City watershed boundary, which the City supports, of up to 4,000 feet stripping property rights on another 33,000 acres; and

WHEREAS, the City's comments on the Revised Draft SGEIS, if adopted, would strip property rights from landowners in the Towns of Colchester, Hancock and Deposit within two miles of City infrastructure including tunnels outside the watershed and in addition would require the State to allow the City to approve any application between two to seven miles of infrastructure stripping in total another estimated quarter million acres of landowner property rights in these zones; and

WHEREAS, the affect of the State Revised Draft SGEIS and the City's proposed changes to it would eliminate access to natural gas on at least 80 percent of the County's land base; and

WHEREAS, although New York City opposes drilling in the watershed, the City has identified energy from natural gas as a critical component of its Greenhouse Gas Initiative and Long Term Energy Plan. The City will benefit from natural gas drilled in someone else's watershed to convert buildings currently using #4 and #6 fuel oil to natural gas, as well as, converting their fleet of trucks and other vehicles to natural gas. In the meantime, Delaware County residents will not receive the benefits of low cost natural gas and must continue to rely on home heating oil at \$4.00/gallon; and

WHEREAS, in December, 2010, DEC issued an updated Water Supply Permit to NYC which confirmed that the Watershed MOA "established a framework for a 'partnership to cooperate in the development and implementation of a Watershed protection program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed communities.' The Partnership created by the Watershed MOA requires that the DEC and NYC meet with and agree to compensate watershed communities prior to confiscating billions of dollars of mineral rights in order to avoid the cost of filtration.

NOW, THEREFORE BE IT RESOLVED, that the Delaware County Board of Supervisors declares the Natural Gas Prohibition and in particular, the proposed described setbacks as discriminatory acts that have no rational basis other than to protect the City's filtration waiver at the expense of the Delaware County residents; and

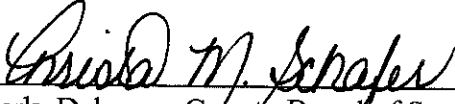
BE IT FURTHER RESOLVED, that the Board of Supervisors demand reparations from the City and State for the mineral rights taken from affected landowners and communities equal to the projected gross value of lost revenues provided by natural gas in Delaware County (based on the City's Study projection for concentration of well drilling sites and well yield according to the DEC Revised Draft SGEIS for the value of natural gas) of \$81.3 billion over 60 years plus millions in real property tax revenues and lost employment opportunities; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to NYS Governor Andrew M. Cuomo, U.S. Senator Kristin Gillibrand, U.S. Senator Charles Schumer, U.S. Congressman Christopher Gibson, NYS DEC Commissioner Joe Martens, NYSDOH Commissioner Nirav R. Shah, NYC Mayor Michael R. Bloomberg, NYC DEP Commissioner Carter Strickland, NYS Senator Majority Leader Senator Dean Skelos, NYS Assembly Speaker Sheldon Silver, EPA Region 2 Director Judith A. Enck, NYS Senator John Bonacic, NYS Senator James L. Seward, NYS Assemblyman Clifford Crouch, NYS Assemblyman Peter Lopez, NYC Council Speaker Christine C. Quinn.

State of New York
County of Delaware

I, Christa M. Schafer, Clerk of the Board of Supervisors of Delaware County, do hereby certify that the above is a true and correct copy of a resolution adopted by said Board on the 22nd day of February 2012 and the whole thereof.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed the seal of
said Board at Delhi, New York, this 22nd day
of February 2012.



Clerk, Delaware County Board of Supervisors