

RESOLUTION NO. 84

TITLE: OPPOSITION TO THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION'S DECISION TO REQUIRE COMPLIANCE WITH MORE RESTRICTIVE PERMITTING AND COSTLY REGULATIONS FOR NATURAL GAS DRILLING IN UNFILTERED WATER SUPPLIES WATERSHED AFFAIRS

WHEREAS, on April 23, 2010, the DEC issued a statement that a determination had been made to require each application for a natural gas well permit within the New York City Watershed to require the preparation of a draft environmental impact statement and to conduct a burdensome environmental review process; and

WHEREAS, the intended effect of the determination was to effectively ban natural gas well permits within the New York City Watershed by making the permitting process so long, expensive and uncertain, that it was neither economical nor rationale for a person to submit an application; and

WHEREAS, DEC effectively acknowledged that it was seeking to ban natural gas mining within the New York City Watershed in a manner that would prevent the property owners that lost their mineral rights from receiving compensation; and

WHEREAS, NYC impounds, exports and sells the surface water that is collected from 502,000 acres within Delaware County (including 23 towns and villages); and

WHEREAS, in order to enhance the value of its water supply and to avoid the cost of installing treatment equipment required under State and federal law for all surface drinking water supplies, NYC sought to control all forms of human activity within these Delaware County communities by the adoption of potentially devastating land use regulations; and

WHEREAS, the State of New York (i.e., the Governor's Office and its Executive Departments: DEC, DOH and DOS) requested that NYC and the Delaware County communities (among others) enter into a long term partnership agreement under which NYC would adopt land use regulations negotiated and agreed to by the parties to the agreement in exchange for partnership programs to compensate the property owner and residents for the cost and lost opportunity arising from the regulatory restrictions; and

WHEREAS, in January, 1997, NYC, NYS, DEC, DOI, DOS and Delaware County, the Delaware County Towns and Villages and other stakeholders entered into the historic Memorandum of Agreement ("MOA") which formalized a partnership between the parties to work together in good faith to protect the quality of the water supply while maintaining and enhancing the economic sustainability of the local communities; and

WHEREAS, the MOA is and was the Constitution that created the framework for this living partnership in which all parties “agreed to act in good faith and to take all necessary and appropriate actions, in cooperation with one another, to effect the purposes of this Agreement” (i.e., to enter into a new era of 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”); and

WHEREAS, substantially all of the 502,000 acres within Delaware County subject to the MOA contain significant natural gas reserves (i.e., for many properties the value of the natural gas reserves exceeds the market value of land absent the reserves); and

WHEREAS, NYS collects millions of dollars each year in royalties from the natural gas reserves under State owned land; and

WHEREAS, conspiring to identify and then implementing a regulatory approach to take the natural gas reserves from private and public land owners within Delaware County in order to enhance the value of NYC’s drinking water resources while avoiding any form of compensation to the impacted property owners is not consistent with the Partnership created by and governed by the MOA and is not consistent with the commitment made by all Parties to the MOA to “act in good faith and to take all necessary and appropriate actions, in cooperation with one another,” to implement water quality protection programs that “enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed Communities”); and

WHEREAS, in their public statements prior to April 23, 2010, the DEC Commissioner and the DEC engineers and geologists have asserted that with proper safeguards natural gas wells did not pose a risk to NYC surface drinking water supply that is different, unique or greater than any other surface drinking water supply; and

WHEREAS, in their public statements prior to April 23, 2010, the DEC Commissioner and the DEC engineers and geologist have asserted that natural gas wells (including horizontal drilling with hydraulic fracturing) can be installed and accessed in a manner that is not a significant threat to groundwater and surface water supplies; and

WHEREAS, the DEC’s determination on April 23, 2010 was made in response to political pressure from New York City and private organizations rather than any rational basis; and

WHEREAS, Delaware County Board of Supervisors acknowledges that New York City and its eight million residents have a political influence greater than Delaware County and its forty-seven thousand residents; and

WHEREAS, Delaware County Board of Supervisors acknowledges that its full time residents have a median per capita and per household income that is far below the median NYS and NYC income levels; and

WHEREAS, Delaware County Board of Supervisors determined, at the urging of NYS, that it was in the best interest of their residents to participate in the MOA in order to obtain the protections of the MOA including the Parties' commitment to work together, in cooperation and in good faith to enhance the value of the NYC water supply while enhancing the economic vitality and social character of the communities.

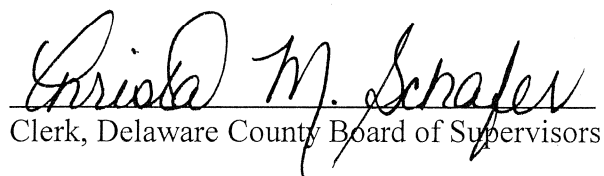
NOW, THEREFORE BE IT RESOLVED, that the Delaware County Board of Supervisors requests that the Delaware County Department of Watershed Affairs, the Department of Planning, Department of Economic Development and the Department of Public Works to immediately conduct an evaluation to identify a plan of action which may include land acquisition negotiations to compel the State to comply with its obligations under the MOA to work together, in cooperation and in good faith on this issue and to make determinations regarding natural gas permitting consistent with good engineering judgment and equality under law.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to NYS Governor Patterson, Commissioner of the NYS Department of Health Richard F. Daines, M.D., Commissioner of the NYS Department of Environmental Conservation Peter Grannis, US Senators Charles Schumer and Kirsten Gillibrand, US Congressmen Murphy and Hinchey, NYS Senator John Bonacic, NYS Assemblymen Clifford Crouch and Peter Lopez and USEPA Region 2 Administrator Judith Enck, NYC Mayor Bloomberg, Executive Director of the Watershed Protection and Partnership Council William Harding, the Coalition of Watershed Towns and Counties, and the NYS Association of Counties.

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 28th day of April 2010 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 28th day
of April 2010.


Clerk, Delaware County Board of Supervisors