



NEW YORK STATE CATHOLIC CONFERENCE

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PUBLIC COMMENTS OF THE NEW YORK STATE CATHOLIC CONFERENCE

**REGARDING THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION'S
HYDRO-FRACTURING PROPOSAL**

**[REVISED DRAFT SUPPLEMENTAL GENERIC ENVIRONMENTAL
IMPACT STATEMENT ON THE
OIL, GAS AND SOLUTION MINING REGULATORY PROGRAM - WELL
PERMIT ISSUANCE FOR HORIZONTAL DRILLING AND HIGH-VOLUME
FRACTURING TO DEVELOP THE
MARCELLUS SHALE AND OTHER LOW-PERMEABILITY GAS
RESERVOIRS]**

Submitted Date: January 6, 2012

These comments are submitted on behalf of the New York State Catholic Conference, representing the Catholic Bishops of New York State on matters of public policy. The Catholic Church is the largest non-profit provider of education, health and human services in the state. The ministries of the Church are found in every locality of New York, serving not just the spiritual needs of the people but also the material. Our Catholic tradition compels us to be active participants in the civic life of our community, and to help fashion policies to shape a more caring world that upholds the dignity of every individual with a particular focus on the needs of the poorest, sickest, neediest and vulnerable among us.

While policy issues can often be complex, the Church has established seven principles of Catholic Social Teaching that guide us in the formation of our positions: respect for the life and dignity of all human beings; a call to family, community and participation; recognition of human rights and responsibilities; special concern for the poor and vulnerable; the dignity of work and rights of workers; solidarity with our brothers and sisters; and care for God's creation.

It is this final point, the care for God's creation, which is the starting point for our comments on this matter, although these teachings are intertwined and many of them inform our deliberation. In order to examine the issue of high-volume horizontal hydraulic-fracturing mining in light of the Church's teachings, we previously have supported the state's moratorium on the mining technique and have asked that the drilling permits not be issued until certain issues are addressed. We now evaluate the September 7, 2011 DEC report in light of our previously expressed (and *italicized* below) points:

- *Require public input on all regulations and guidelines regarding hydraulic fracturing, encouraging the development of a comprehensive state energy policy that promotes and invests public funds in renewable energy sources and conservation and disinvests in sources that contribute to climate change.*

The Catholic Conference appreciates the opportunity for public input in this comment period, and urges the state to put in place a completely transparent licensing process, with each license application triggering a comment period to allow for adequate local scrutiny. We are concerned that the gas industry has challenged the legality of hydraulic fracturing bans enacted in several localities, as those types of community actions represent the will of the people at its most basic level. The second part of the above point calls for a comprehensive state energy policy with incentives for renewable energy. We suggest that a portion of the revenues from license holders be collected by the state and set aside to fund this incentive program.

- *Promote citizen awareness of the socioeconomic short and long term costs of hydraulic fracturing on families, communities and the state – including the prospects for job creation/sustainability for local residents of the region, concerns about drinking water contamination and human health, and the impact on tourism and agriculture.*

This point raises concerns about both the economic and physical well-being of New Yorkers impacted by hydraulic fracturing drilling. It would be helpful for citizens and communities to have a complete cost/benefit analysis to more realistically weigh the sustainability and short/long-term economic prospects of gas extraction. It is also

important to establish proactive public policies to reduce the economic and social risks and harm that could occur in rural communities experiencing a decline in tourism, agriculture, property values, and damaged roads and other infrastructure costs. The DEC contracted with an outside consultant to assess the potential economic benefits of hydraulic fracturing of the Marcellus Shale region of the state, but the report does not include a complete assessment of costs or negative fiscal implications for local communities, making it difficult to fully weigh the costs/benefits.

Much has been said by both sides in this debate regarding job creation, with drilling proponents promising thousands of new jobs, and opponents claiming these jobs are temporary and generally go to transient gas drillers who will simply be brought into New York by the gas industry and then moved elsewhere as gas supplies are tapped out and the drilling operations move on to other states. Catholic social teaching encourages both full employment and dependable jobs, and, therefore, we urge policymakers to examine the drilling proposal in light of both principles. The state cannot ignore the need for fiscal infusion in cash-strapped localities, but also should not allow one industry's proposal to serve as a panacea in those communities and take the place of a true and comprehensive long-term job development strategy.

Shale drilling in other states (Wyoming, Texas, Pennsylvania) appears to have had some negative economic consequences for tourism and agriculture because of the industrial activity of high volume hydraulic fracturing. Tourism and agriculture are intertwined in the Marcellus Shale region with rolling hills, farmland, vineyards and lakes. The report makes little mention of the potential for devalued property and lower tax assessments, nor does it provide any remedies for those affected should this occur. Reports of rising housing costs in the counties bordering northern Pennsylvania are causing economic stress and displacement for low-income residents even before any gas drilling begins. How will this be mitigated?

We are very concerned that low-income housing shortages that are likely to occur as that housing is rented for exaggerated rates to temporary workers, thus displacing current residents. We note that Chapter 6 of the report takes notice of this issue, but discusses how negative economic impact to the community will be offset by the overall positive impact of drilling and construction jobs. We ask that the impact on those directly impacted – those displaced from their homes – be provided assistance immediately, by a fund collected from the licensed entities.

The report also does not assess public health impact, despite concerns about the potential harm that air pollution and water contamination could have, especially on children, elderly, and other vulnerable people. There appears to be evidence of negative human health impact from other states where gas extraction has occurred.

- *Transparency regarding all chemicals, additives and substances used in hydro-fracturing - gas companies must bear the full cost of remediation in case of spill or groundwater/well contamination.*

The revised draft calls for a strengthened disclosure of the chemicals used in the hydraulic fracturing process, but, makes no mention about banning chemicals that are known to be toxic or carcinogenic even at very low levels. We urge the state to enact a ban on the most dangerous chemicals, and also recommend an adequately funded set-aside by the industry for remediation of water contamination where that occurs.

We are concerned that *draft regulations* have been released before the public comment and review process for the revised draft SGEIS has been completed. This undermines what should be a careful process designed to protect human health, drinking water, rural communities, and the environment of New York State.

- *Gas companies fund, develop and maintain waste water reservoirs and treatment plants and pay a fee for withdrawal of water from public sources.*

The report does expand the buffer and setback from aquifers, wells and other drinking water sources. While this is positive, these buffers may not be adequate to fully protect drinking water from contamination should there be a leak or other accident. The report includes a temporary prohibition on well pads for hydraulic fracturing within the NYC and Syracuse watersheds and within a 4,000-foot buffer around those watersheds. This raises questions about the need for more substantial buffers in other watersheds so as to provide the maximum protections for all drinking water sources and these buffers should not be waived or weakened.

- *Adequate buffer zones/set-backs from homes, schools, hospitals, public and private water sources and other sites where public health could be compromised.*

We are concerned that the individual sites will not be placed in a way to fully safeguard New York's residents. The report does discuss many of these issues, but the state regulatory agencies will be stretched thin in attempting to regulate each licensed site and entity, particularly without a cap placed on the number of licenses to be issued.

- *Gas companies commit to the funding of the reconstruction of damaged/high use infrastructure (roads, etc.) and emergency response costs to adverse environmental impacts.*

Our Catholic Social Teaching recognizes that for every right that persons may have, there come corollary responsibilities. In light of this principle, and in keeping with the teachings of our Church that recognize that "*those responsible for business enterprises are responsible to society for the economic and ecological effects of their operations*" (*Catechism of the Catholic Church*: no. 2432), we believe that if gas companies are granted permission to develop hydraulic fracturing operations in an area, they be made to fund both reconstruction of any high use infrastructure damaged as a result of their operations, as well as bearing the full costs of any emergency response that might be required.

- *Revoke compulsory integration in order to allow non-leaseholders to opt-out and allow home rule for local communities to regulate the development.*

Just as we as a Conference support the natural right of parents to be the best determiners of where and how their own children should be educated because of their intimate knowledge of the unique needs of their own children, so do we believe that the local community is likely the best determiner of how resources in their own geographic area should be developed and used.

In the Catholic tradition...*”participation in political life is a moral obligation.”* (*Forming Consciences for Faithful Citizenship*, paragraph 13) The *Catechism* also reminds us that *“it is necessary that all participate, each according to his position and role, in promoting the common good. This obligation is inherent in the dignity of the human person.”* (*Catechism of the Catholic Church*: nos. 1913-1915). We affirm human dignity by supporting the right of individuals to have a voice in how their own property is used. Therefore, we as a Conference call for the revocation of the so-called compulsory integration laws whereby the *New York State Department of Environmental Conservation* can force landowners to accept sub-soil gas and oil drilling on his/her property if nearby lands are being drilled.

Similarly, the principle of **subsidiarity**, whereby *“a community of higher order should not interfere in the internal life of a community of lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always in line with the common good”* (*Catechism of the Catholic Church*: nos. 1883), compels us as a Conference to support home rule for local communities to regulate the development of natural resources located within and below their own communities.

Finally, we recommend that the state implement the program only after taking the following steps:

- *Establish a severance tax for each well drilled and dedicate the tax revenue and proceeds from all hydraulic-fracturing related fees to fund human needs programs to mitigate potential consequences in the regions of the state directly impacted by this drilling and gas extraction method.*
- *Steward the use of the available gas over a longer period of time and retain the gas resources for use in New York State.*

We submit these comments regarding environmental and human needs concerns without stating a position either in support or opposition to the larger question of whether hydraulic-fracturing drilling should proceed at all. We thank the Department of Environmental Conservation for attention to the matters of concern raised in this statement. We hope that, together with the multitude of other comments being considered in this public comment process, our concerns will assist in crafting the best policy for all people and regions of our Empire State.