

**NEW YORK STATE PETROLEUM COUNCIL**

A Division of the American Petroleum Institute

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MICHAEL R. DOYLE

EXECUTIVE DIRECTOR

**MEMORANDUM IN OPPOSITION**

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**Opposition to Proposed Local Law Intro. No. 8-1  
Before the Energy and Environment Committee of the Erie County Legislature**

The New York State Petroleum Council wishes to express its opposition to the above-referenced proposed local law that would prohibit hydraulic fracturing of all oil and natural gas wells—including vertical wells—in Erie County.

Because this proposal is preempted by state law; because the ban would virtually halt the drilling of oil and natural gas wells in Erie County that bring the county substantial jobs and revenue; and because the prohibition ignores the long history of safe natural gas drilling practices in New York, we oppose this measure.

The Petroleum Council is a trade association that represents major oil and gas companies doing business in New York. We are a division of the Washington, DC-based American Petroleum Institute (API). Our members include Amerada Hess Corporation, BP America, Inc., ConocoPhillips, ExxonMobil Corporation and Shell Oil Company.

Calling for a ban on all natural gas and oil drilling in an effort to protect the county's fresh water supply reflects a misunderstanding of the process, current and proposed regulations as well as the long history of safe drilling practices in the County and the state. Oil and natural gas drilling is not new to New York. In 1821, the first gas well was drilled nearby in the Village of Fredonia. To date, more than 75,000 oil and natural gas wells have been drilled in this state; 14,000 are currently active, with over 1,400 wells in Erie County. The NYS Department of Environmental Conservation, Division of Mineral Resources has had an excellent track record on environmental compliance and safety standards. Over 10,000 wells have been drilled in New York since the advent of improved casing and cementing conditions in the 1980's with no impact on the ground waters of the state.

Hydraulic fracturing operations are also not new—the process has been used in the United States, including New York, for more than 60 years in more than one million wells. This drilling method is highly regulated and monitored in New York. All of the natural gas wells in the Medina Formation in Erie County have been hydrofracked.

For more than three years now, DEC has been conducting an exhaustive and very public regulatory proceeding to update rules for natural gas drilling in the Marcellus Shale region using high-volume hydraulic fracturing. This is an issue that is not being settled in a back room, but is receiving a full airing in public forums all over the state and will be decided in the same manner. Once completed, New York will provide the most rigorous rules for drilling in the country and ensure the state's natural resources, including drinking water sources, are protected.

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With respect to the preemption of state law over local law, we refer you to Environmental Conservation Law §§23-0303(2) and 23-1901 (2) that expressly provide that the state Oil, Gas and Solution Mining Law supersedes all local laws or ordinances relating to oil and gas drilling and related activities with the exception of local roads and taxation. Drilling activities are conducted along geologic boundaries, not political ones, and a uniform set of regulations statewide ensures that the rights of all parties are protected. It also permits localities to expend resources and enforcement personnel on other functions, leaving the state agencies with the experience, expertise and staff to regulate oil and gas exploration and development. Only the state Department of Environmental Conservation (DEC) has the authority to regulate the oil and gas drilling.

It is worth noting that lawsuits are pending against two localities that have enacted similar bans. In the first case, Anschutz Exploration Corporation has sued the Town of Dryden in Tompkins County concerning a prohibition on drilling activities in the town. In the second case, a lawsuit was filed by a landowner against the Town of Middlefield in Otsego County. It makes no sense for the County to venture into this issue until the courts have reached a decision on the merits.

Most important for Erie County—where substantial hydrofracking is currently going on and has been for years without incident—jobs and revenue will be lost. Besides direct drilling jobs that will be lost, indirect employment will also be affected by this local law. Legislators should be mindful that natural gas drilling operations involve multiple industries/business groups—surveyors, excavators, equipment manufacturers, heavy equipment haulers, pipefitters, welders, oil field service companies and their subcontractors, road construction and maintenance contractors, equipment manufacturers, chemical supply companies, drilling contractors, food service companies, fuel oil supply companies, environmental engineers, computer engineers, landscaping companies, water treatment specialists, waste and garbage haulers and recycling companies and so forth. Therefore, in estimating the economic impact of this proposal, it is no exaggeration to say that hundreds-of-thousands-of- dollars in current and future revenue, if not more, maybe lost in Erie County.

In conclusion, while we appreciate some of the concerns expressed by the sponsor of this proposal, we see it as an overreaction to misinformation about the conduct and regulation of the natural gas industry. In addition, the proposal is preempted by state law. For the County to enact this local law in the face of pending lawsuits and the state's comprehensive environmental review is ill-advised and untimely. Furthermore, the livelihoods of county residents will be adversely affected for years to come. This is not the way to pave "The Road to a Bright Future," that the County wants to develop.

For the foregoing reasons, we respectfully urge that this measure be defeated.

(10/26/11)