Memorandum

From: City of Cortland Environmental Advisory Committee

To: Cortland Common Council

Re: Marcellus Shale Gas Drilling/dSGEIS Withdrawal Resolution

Date: May 8, 2010

This memo is written to cover the Committee's submission to the Council of several models of municipal resolutions that have requested the Governor to withdraw the Draft Supplemental Generic Environmental Impact Statement (dSGEIS) related to the controversial practice of horizontal drilling and hydraulic fracturing of the Marcellus Shale gas deposits.

We feel that recent developments concerning this practice make it important for the City of Cortland to also go on record as opposing the dSGEIS. Among them are:

1. The DEC's effective banning of "hydrofracking" in the New York City and Syracuse watersheds.
2. The introduction of legislation (A10633) by Assembly Member Barbara Lifton that would ensure uniform standards of watershed protection statewide and restore a measure of local control over the siting and regulation of gas wells.
3. Actions undertaken by the towns of Cortlandville and Virgil related to zoning and addressing similar concerns of siting and regulation.
4. A resolution opposing hydrofracking and requesting withdrawal of the dSGEIS was adopted by the Cortland County legislature.

There have also been many public forums held locally and regionally that have discussed the pitfalls of hydrofracking and the threat it may represent to local water supplies, public infrastructure and quality of life. The number of websites and internet resources dedicated to the same subject are simply too numerous to list in this memo, however, we would be happy to provide links to resources on request.

The Committee is therefore recommending to the Council that action be taken promptly to indicate the City's concern that the dSGEIS is fatally flawed and wholly inadequate. Our preferred version of a resolution is the one submitted electronically as "C'land Drilling Res.doc;" however, as mentioned we are providing other samples for your consideration.

We believe this is a potentially explosive issue that we ignore at our peril, and we thank you for your attention to this matter. Again, please feel free to contact the Committee should you require further information.

REGULAR MEETING OF THE CORTLAND COMMON COUNCIL
(DATE)

COMMON COUNCIL RESOLUTION NO. : A REQUEST TO GOVERNOR DAVID A. PATERSON to Withdraw the Draft Supplemental Generic Environmental Impact Statement Related to Horizontal Drilling and High-Volume Hydraulic Fracturing to Develop Marcellus Shale and Other Low-Permeability Gas Reservoirs

WHEREAS, the City of Cortland, a community in Cortland County with a population exceeding 18,000, is wholly located above a portion of the Marcellus Shale formation, a low-permeability rock formation estimated to contain reserves of natural gas; and

WHEREAS, the City of Cortland and surrounding communities are wholly located above the Cortland-Homer-Preble Sole-Source Aquifer, the only source of pure drinking water for the entire City, Village of Homer and Town of Cortlandville, a total of some 30,000 residents representing 60% of the population of Cortland County; and

WHEREAS, recent technological developments including horizontal drilling and high-volume hydraulic fracturing have enabled energy exploration companies to potentially exploit this resource in New York State, including the towns in immediate proximity to the City of Cortland; and

WHEREAS, the City of Cortland recognizes the need for interim energy sources as our state and country transition to widespread economical renewable energy use; and

WHEREAS, the City of Cortland recognizes that, if properly regulated, the development of natural gas resources in New York State could present some communities and residents with financial benefit; and

WHEREAS, the City of Cortland also realizes that the aforementioned potential financial benefits could easily be offset by unforeseen and preventable damage to the Upstate economy, including the tourism, wine, agriculture and education industries, should development of natural gas resources be allowed to continue in a largely unregulated manner; and

WHEREAS, City of Cortland residents have consistently identified environmental protection as a top priority for consideration in land-use and growth management policies; and

WHEREAS, the City of Cortland has historically taken an active role in the siting and permitting of development within its borders; and

WHEREAS, it is generally recognized that NYSDEC has assumed *de facto* siting and permitting authority related to the exploration and extraction of natural gas; and

WHEREAS, City of Cortland taxpayers have expended millions of dollars developing, maintaining and protecting their sole clean drinking water source; and

WHEREAS, City of Cortland taxpayers have expended millions of dollars developing, maintaining and upgrading advanced wastewater processing facilities including biological processes that are not designed to treat fracturing fluid and wastewater from natural gas operations; and

WHEREAS, the process of hydraulic fracturing involves the use, retention and disposal of millions of gallons of fracturing fluid and wastewater that is high in dissolved solids and contains toxic and radioactive materials, some of which are not subject to public disclosure requirements; and

WHEREAS, there are no requirements for closed, above-ground storage facilities, nor pre-treatment requirements, for the fracturing fluid and wastewater generated during the fracturing process; and

WHEREAS, the United States Environmental Protection Agency may be preparing to undertake an

investigation of the impacts of hydraulic fracturing on the environment; and

WHEREAS, there have been hundreds of reported spills, fires and contaminated water supplies related to conventional vertical well drilling in New York State, and surface contamination related to the retention and disposal of fracturing fluid and wastewater from natural gas operations; and

WHEREAS, staff resources of the NYSDEC Division of Mineral Resources, Bureau of Oil and Gas Regulation are dangerously inadequate to manage current drilling activities in New York State and, so, are not sufficient to handle the widespread proliferation of deep well horizontal drilling and hydraulic fracturing; and

WHEREAS, the proposed fee structure related to permitting new wells would not provide finances adequate to staff NYSDEC to the degree necessary to process and manage an onslaught of new and more complicated drilling operations, thereby potentially creating a taxpayer subsidy for the oil and gas industry; and

WHEREAS, there is no strict liability requirement for natural gas drilling waste releases by energy companies, potentially shifting the financial burden of remediating contamination related to drilling and extraction to taxpayers; and

WHEREAS, New York State's Spill Remediation Fund may only be available for emergency response related to oil spills, excluding emergencies related to natural gas; and

WHEREAS, reporting requirements for uncontrolled oil and gas releases are currently insufficient and could be made similar to those for leaking underground storage tanks; and

WHEREAS, the widespread development of natural gas resources in New York State would involve the regular transport of heavy equipment and routine hauling of large volumes of hydraulic fluid and hydraulic fracturing wastewater over state, county and municipal roads and bridges, overtaxing our highway infrastructure, creating potentially unsound and dangerous conditions and imposing a new financial burden on taxpayers; and

WHEREAS, foreknowledge of the siting of industrial facilities related to natural gas development is critical to acquiring an understanding of future road usage for bonding and planning purposes, and no such advance notification requirement exists; and

WHEREAS, a comprehensive analysis of the statewide impacts of natural gas development utilizing a "full build-out" scenario has not been done; and

WHEREAS, the City of Cortland has a responsibility to preserve and protect its natural resources, water resources, infrastructure, and residents' quality of life.

NOW, THEREFORE BE IT

RESOLVED, that the City of Cortland Common Council hereby requests that the Honorable David A. Paterson, Governor, withdraw from SEQRA review the *Draft Supplemental Generic Environmental Impact Statement On The Oil, Gas and Solution Mining Regulatory Program- Well Permit Issuance for Horizontal Drilling And High-Volume Hydraulic Fracturing to Develop the Marcellus Shale and Other Low-Permeability Gas Reservoirs*, as the aggregate protection provided therein is inadequate to safeguard the public health, environment and economy of New York State.

BE IT FURTHER RESOLVED, that the City of Cortland Common Council requests that no new permits be issued for horizontal drilling and deep well hydraulic fracturing until the aforementioned and following regulatory issues are addressed:

1. Allow municipal control over permitting, siting and certain construction and operational parameters in accordance with a municipality's land-use regulations and local laws.

2. Require closed storage and pre-treatment of fracturing fluid and wastewater from natural gas operations. Prohibit surface storage and surface disposal of fracturing fluid and wastewater from natural gas operations.

3. Require complete public disclosure of fracturing fluid and drilling wastewater constituents.

4. Require independent baseline water quality testing of potentially impacted public and private drinking water sources, financed by energy companies.

5. Mandate setbacks from private and public water sources that are adequate to protect them from uncontrolled releases of gas and hydraulic fluid, which, according to NYSDEC historical spills data, can migrate thousands of feet in minutes.

6. Impose strict reporting requirements for uncontrolled oil and gas releases consistent with New York State Navigation Law.

7. Impose strict financial liability on energy companies for environmental remediation costs.

8. Allow access to New York State's Spills Remediation Fund for emergency cleanup related to natural gas drilling contamination releases.

9. Create a permit fee structure to finance adequate staffing at NYSDEC and training of local emergency response personnel.

10. Require comprehensive safety and health training for persons engaged in the drilling process.

11. Require energy companies to post performance bonds or acquire pollution clean-up insurance prior to initiating site work.

12. Require disclosure of development plans far enough in advance to allow for planning and bonding for bridge and roadway use.

13. Conduct a comprehensive analysis of statewide impacts of natural gas development, using a "full build-out" scenario based on the maximum allowable wells per acre.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to Governor Paterson, NYSDEC Commissioner Grannis, State Senator Seward, State Assembly Speaker Silver, State Assembly Members Lifton, Finch and Kolb, Chair of State Senate Committee on Environmental Conservation Thompson, Chair of State Assembly Committee on Environmental Conservation Sweeney, State Attorney General Cuomo, U.S. Representative Arcuri, U.S. Senators Schumer and Gillibrand, New York State Association of Towns and Municipal Officials and Clerks.

MOVED:

SECONDED:

VOTE: