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65th Assembly District

Opposition to Drilling in New York City's Watershed

Testimony by Assembly Member Micah Z. Kellner
Before the New York State Department of Environmental Conservation
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My name is Micah Z. Kellner and I represent the 65th Assembly District in Manhattan, including parts of the Upper East Side, Yorkville, and Roosevelt Island. Thank you to New York Department of Environmental Conservation Commissioner Grannis for the opportunity to testify today.

It is difficult to overemphasize the importance of the New York City Watershed to the City and State of New York. The Watershed is the largest unfiltered drinking water supply in the nation, providing 1.3 billion gallons of affordable, high-quality drinking water daily to more than 9 million consumers in New York City — half the population of the entire state of New York.

As such, I steadfastly oppose any move to allow natural gas drilling in the Watershed and thank the Department of Environment Conservation for extending the public comment period related to this application until December 31st to allow for full review of the recently released 800-page Draft Supplemental Generic Environmental Impact Statement (“DSGEIS”) on Gas Development in the Marcellus Shale. Clean water is one of our most precious resources, and the extension of the public comment period is an important step in assuring that decisions regarding drilling in the Marcellus Shale will not be rushed.

The draft SGEIS does not guarantee adequate protection of the Watershed, nor does it provide sufficient transparency or opportunities for public scrutiny of the case-by-case, wide-ranging discretion DEC would take on in this regard. Until more thorough, conclusive studies are completed on the environmental impact, I urge the DEC to adopt a moratorium on any drilling in the region. Laws and regulations protecting our water supply have long stood as a beacon of clean water regulation and have preserved the largest source of unfiltered safe water in the world. Any drilling in this location could jeopardize this delicate ecological balance and endanger the health and welfare of New Yorkers.

There is broad support for a moratorium on drilling in this region, extending even to corporations who might stand to gain from drilling. A recent *New York Times* article from October 27 2009 reported on Chesapeake Energy Corporation's announcement that the corporation would not drill in the New York City Watershed. According to the *Times*: “Chesapeake's announcement was praised by environmental advocates. They said the company's position should encourage the state to reverse its prior open drilling policies and impose an outright drilling ban throughout the watershed.”

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I most emphatically agree. New York State should not lag behind industry in regulating drilling of the Marcellus shale. I am a co-sponsor of A.8748, which would set strict standards for protecting drinking water throughout the state, and prohibit drilling in and around the New York City watershed. We need this legislation to create an enforceable buffer.

In addition to these important matters of public health and environmental policy, I am also concerned that the Department seems to lack sufficient resources to review permit applications, conduct inspections, and implement other regulatory actions to ensure safe drilling. It seems that the gas industry should carry the financial burden of regulating safe drilling activities in the shale, rather than a public agency with strapped resources.

While the potential for revenue growth from hydraulic fracturing in the Marcellus shale has been discussed at great length, the SGEIS does not account for its balance, the *costs* of drilling--not even to mention what expense the public would bear in the event of a leak or spill.

Currently the City of New York receives a federal waiver through the Filtration Avoidance Determination (FAD) process that allows it to provide high-quality unfiltered drinking water to residents and businesses. Contamination of the watershed, such as through the drilling process known as hydrofracing, which uses water and chemicals to release the natural gas below the shale, could pose a risk of toxicity when introduced to drinking water. If that happens, the City stands to lose the FAD waiver and may be required to construct a filtration plant—the cost of which has been estimated between \$10-20 billion. The SGEIS does not account for these potential and all too likely long term costs.

On a technical level, the DEC has not adequately addressed the cumulative effects of gas drilling in the Marcellus Shale on ozone emission standards, lacking firm estimates on the future levels of drilling in the region. There is reason for concern that the modest “unit” estimates named in the SGEIS may underestimate the impact: In Wyoming and Texas, where similar drilling has been done, violations of national ozone emission standards have occurred.

The SGEIS also fails to account for impacts on local communities near the drilling sites, to assess from an environmental justice standpoint, equal protection of all communities. There is a legitimate public interest in ensuring that the placement of waste treatment plants, waste disposal areas, as well as trucking routes, are not unduly affecting disadvantaged communities.

Also, the SGEIS does not address how the quality of regional water will be impacted by storm-water discharge around multiple drilling sites.

Without measuring these, and other, cumulative impacts on the region from drilling, the DEC cannot assess the real economic and health consequences of shale drilling.

Finally, one of the most troubling failures of the SGEIS is its lack of evaluation of alternatives, even though this step is required by law. Without providing for a meaningful discussion of alternatives in this report, such as considering a mandate to require non-toxic chemicals for the hydrofracing process, the SGEIS is unquestionably inadequate.

Thank you again for the opportunity to testify today.