

Introduced by:

Referral No. 4124

Hon. Connie L. Coker, Sponsor  
Hon. Alden H. Wolfe, Co-Sponsor  
Hon. Jay Hood, Jr., Co-Sponsor  
Hon. Harriet D. Cornell, Co-Sponsor  
Hon. Philip Soskin, Co-Sponsor  
Hon. Douglas J. Jobson, Co-Sponsor

**RESOLUTION NO. 394 OF 2010  
URGING GOVERNOR PATERSON TO IMPOSE A MORATORIUM ON  
HYDROFRACKING PENDING FURTHER INDEPENDENT SCIENTIFIC  
ASSESSMENTS AND FINAL REVIEW BY THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY, NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND OTHER  
RELEVANT GOVERNMENT BODIES TO DETERMINE THE RISKS  
ASSOCIATED WITH HYDROFRACKING, AND URGING GOVERNOR  
PATERSON TO WITHDRAW THE NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION'S DRAFT SUPPLEMENTAL  
GENERIC ENVIRONMENTAL IMPACT STATEMENT REGARDING  
HIGH-VOLUME HYDRAULIC FRACTURING GAS DRILLING IN  
NEW YORK STATE PENDING FURTHER INDEPENDENT SCIENTIFIC  
ASSESSMENTS TO DETERMINE THE AGGREGATE PROTECTION  
PROVIDED THEREIN CONCERNING THE PUBLIC HEALTH,  
ENVIRONMENT AND ECONOMY OF NEW YORK STATE**

Ms. Coker offered the following resolution, which was seconded by Mr. Michel and Mr. Wolfe and unanimously adopted:

WHEREAS, New York faces a potential environmental crisis in the form of hydraulic fracturing, known as "hydrofracking", which involves drilling deep horizontal wells into areas of shale, and infusing massive quantities of water and potentially toxic chemicals into wells to fracture the shale and release natural gas; and

WHEREAS, companies are buying land rights from landowners across New York with the expectation that New York State will quickly finalize its environmental review allowing hydrofracking in our region; and

WHEREAS, the proposed state environmental review raises serious questions about the ability of the proposed state permit conditions to protect our natural resources and prevent permanent damage to our environment; and

WHEREAS, the New York State Environmental Conservation Law supersedes local regulation of the gas and solution mining industries, thereby precluding local governments from regulating gas and oil well drilling operations; and

WHEREAS, the proposed permit conditions fail to adequately monitor groundwater near gas wells and fail to detect or remediate contamination of aquifers, thereby posing a threat to individual and public supply wells, and fail to provide for an adequate analysis of the chemicals used in the fracking fluids, allowing the use of substances that may be carcinogenic, mutagenic or endocrine disrupters; and

WHEREAS, the constituents of the flowback water from the hydrofracking operations may be unsuitable and unsafe for disposal at local wastewater treatment plants, resulting in potential holding ponds of toxic waste across New York; and

WHEREAS, the potential for contamination of municipal and individual well-based drinking water and the potential water quality impacts from the migration of chemicals and improper discharge of wastewater directly to the watershed are causes of deep concern to this legislative body; and

WHEREAS, the potential damage to local landscapes and wildlife is incalculable, the possible threat to air quality and public health from drilling operations is immeasurable, and the large quantities of water that must be withdrawn for hydrofracking operations pose a serious and permanent threat to our ecosystem; and

WHEREAS, it is necessary to pursue further independent scientific assessments of all aspects of hydrofracking, and the United States Environmental Protection Agency initiated such an assessment only very recently, while a comprehensive cost-benefit analysis evaluating the proposed Marcellus Shale natural gas development in New York State has not been completed; and

WHEREAS, the New York State Department of Environmental Conservation (DEC) has issued a draft Supplemental Generic Environmental Impact Statement (SGEIS) stating that due to the unique issues related to the protection of New York City and Syracuse drinking water supplies, these watersheds will be excluded from the pending generic environmental review process for natural gas drilling using high-volume horizontal drilling in the Marcellus shale formation. Instead, applications to drill in these watersheds will require a case-by-case environmental review process to establish whether appropriate measures to mitigate potential impacts can be developed. The DEC's plan fails to specify how gas drilling in the watersheds could be done safely. The DEC also did not ban horizontal hydrofracking in those watersheds; and

WHEREAS, the draft SGEIS fails to consider the cumulative effects of drilling the large number of wells envisioned by the gas industry and the sources of the large volumes of water that this process requires for the number of planned wells; and

WHEREAS, the draft SGEIS fails to address the environmental impact of the substantial length of the pipelines required to collect the natural gas; and

WHEREAS, the draft SGEIS fails to propose/require drillers to have a safe method of managing natural gas drilling wastewater and hydrofracturing fluid, but leaves that task to local authorities; and

WHEREAS, the DEC has neither identified the level of, nor funding required for their efforts or those of local governments to properly monitor such drilling operations; and

WHEREAS, the draft SGEIS fails to address critical issues associated with water withdrawal, strict clean up liability, natural gas spill reporting, insurance coverage and unfunded local government mandates; and

WHEREAS, the DEC's own documents show that existing regulations have failed to prevent or to require the clean-up of hundreds of natural gas and oil drilling problems, involving fires, explosions, polluted drinking water wells, home evacuations and massive drilling wastewater releases; and

WHEREAS, in comments on the draft environmental review of high-volume hydraulic fracturing, the United States Environmental Protection Agency stated it "has serious reservations about whether gas drilling in the New York City watershed is consistent with the vision of long-term maintenance of a high quality unfiltered water supply"; and

WHEREAS, the Environmental Committee has met, considered and by a vote of four ayes to one nay, approved this resolution; now therefore be it

RESOLVED, that this Rockland County Legislature hereby requests the state to impose a moratorium on hydrofracking operations pending completion of further independent scientific assessments and final review by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation, and other relevant government bodies, and be it further

RESOLVED, that the Legislature of Rockland County hereby urges Governor Paterson to withdraw the New York State Department of Environmental Conservation's draft Supplemental Generic Environmental Impact Statement regarding high-volume hydraulic fracturing gas drilling in New York State pending further independent scientific assessments to determine the aggregate protection provided therein concerning the public health, environment and economy of New York State; and be it further

RESOLVED, that the Clerk to the Legislature be and he is hereby authorized and directed to send a certified copy of this resolution to Hon. David A. Paterson, Governor of the State of New York; Peter Grannis, Commissioner of the New York State Department of Environmental Conservation; Judith Enck, U. S. Environmental Protection Agency Region 2 Administrator; Hon. Thomas P. Morahan, New York State Senator, Hon. Kenneth P. Zebrowski, Jr., Hon. Ellen C. Jaffee, Hon. Nancy Calhoun, and Ann G. Rabbitt, Members of the New York State Assembly, and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

The vote resulted as follows:

Ayes:	12	(Legislators Coker, Day, Grant, Hood, Jr., Jackson, Michel, Moroney, Murphy, Schoenberger, Soskin, Wolfe, Cornell)
Nay:	01	(Legislator Sparaco)
Absent:	04	(Legislators Bierker, Darden, Jobson, Meyers)

#### Debate:

##### Mr. Day

I did a little research on this. Hydrofracking has been around for about sixty years. Approximately 90% of the natural gas wells use hydrofracking to produce gas. I was just curious as to what was seen that seemed to bring this to the forefront of the concern of the sponsor.

##### Ms. Coker

It is now being proposed to be done at this level in New York State. The risks to the water supply are very great at this magnitude. So that is what people are very concerned about, the New York City water supply and what is happening locally where this is done. I understand that it has been done on small levels. We have always had oil drilling, but now that we are going further out into the ocean and drilling deeper we now see the problems with that. I think that there is a great deal of concern about doing hydrofracking at this level in New York State at this time until we look at it in great more detail and that is why I am encouraging a moratorium until that is done.

##### Mr. Wolfe

I think what I like most about this resolution is that it does not take a position on hydrofracking one way or another. I think most of us have probably seen at least clips from a documentary where you see people essentially opening the tap in their sink and you have water that you can light with a match, now that is scary stuff. When we talk about the size of the shale deposits that are in New York State, take a look at a map of New York State, it is right smack in the middle and that extends all the way down, not too far from us, and up around the whole central part of New York State and the fact is the chemicals and the physical operation of hydrofracking can have a vast impact on our water supply, on the structural stability of rock formation and a tremendous impact on the reservoirs that New York City draws their water from.

This is not about saying that hydrofracking is bad. I think it is more a matter of saying that we should make sure we have all the information before we head down a road that could be potentially disastrous. I think Legislator Coker, her comments regarding the problems that we are now experiencing in regard to probing further and further for our energy needs were very well made.

##### Mr. Day

Actually, I did see that TV show, and it refers to an incident in a Pennsylvania town. I also saw an article that detailed two Syracuse University professors assessment of the incident, and they were of the opinion that the whole issue was a bit overblown.

Some of the things I looked at were what this resolution asserts the EPA is looking to do, and if I understand this correctly, the EPA is saying that they are going to look at this more deeply. That is contradicted by the EPA in February 2010, when their Director of Water Protection Division said that they felt the State was doing a good job already, and now this resolution seems to be looking to pull this from the DEC. That is not logical.

The issue with the oil well in the Gulf is certainly a tragedy of epidemic proportions, but we should also take some lack of comfort to know that we were supposed to have regulations in place to protect us from that. That is a basic failure of the federal government. The point is that it is bad policy to stop what we in America do best solely, because of an accident. We did not do that when the Exxon Valdez crashed off Alaska, because we understand that risks are inherent in human activity, and all we can, in fact should do is implement best practices, safeguards, and regulations that are actually enforced. While we need to get serious about freeing ourselves from an unholy need for fossil fuels and move to sustainability, we need to bridge the gap that will get us there. Can you imagine where we would be in this nation if after the first accident in the space program where we lost astronauts that we folded the entire space exploration program?

I concur that I am happy that this is not banning hydrofracking, because I think it is better putting a limited, temporary moratorium on it. The one thing I am curious about is I hear a lot of the concern emanating for the water supply in New York City so I would like to know if the New York City Council has taken a position of this.

Chairwoman Cornell

I do not know if anyone knows that.

Mr. Day

From what I read so far is apparently not affecting Rockland County. We do memorializing resolutions with some regularity, but this particular issue seems to not affect this County in any way at this time. I would presume that if it was a major issue affecting the New York City water supply I would certainly hope that the City Council has rung in on this matter, particularly given their propensity for taking up issues such as the banning of salt, only because this would seem to be a little bit more important. I was just curious if anyone could share information on that.

Chairwoman Cornell

I don't think we know about the City of New York. I do know that there have been members of Congress in the Upper Hudson Valley who have spoken out on this subject. The documentary, presumably this is the one that Legislator Wolfe was referring to as well, is called "Gas Land" and there was a lot of filming that took place in the West in Colorado and various states and maybe in some of the southern states as well. It was rather terrifying to see the level of flames that came from the water faucet. Whether it is overblown or not overblown I do think this is a good resolution asking for more information.

Ms. Coker

Sullivan County did pass a resolution banning it on County property and expressing grave concern there. I just think that we are asking for more careful study of this, because we want to make sure that this is not going to affect us.

Mr. Day

I am going to support this, because I believe it is very limited and merely a temporary "time out" as opposed to an ideologically based wholesale ban. I can't help but not comment that hydrofracking, the latest buzzword for hydraulic fracturing, a mining procedure being done for over sixty years has not received any indication by the EPA that they wish to revisit this matter, and in point of fact, did not see this as problematic in any way during a full scale review a few years back. They asserted that State regulators, typically the DEC, have done all that is necessary to oversee this matter, and this is not a compelling issue in their mind. Maybe it should be. The reality is that natural gas is a clean energy source. At a time when we need to bridge a gap for fossil fuel to a more environmentally sensitive fuel supply it would seem to me there should be a sense of urgency as it relates to looking at these types of endeavors in a manner that would hopefully provide the fuel sources that we need. With reservations I am going to support this, but it just concerns me that we seem to be talking about this and I just don't see the support for this effort as strong as we would like it to be from the federal level of government.

Mr. Wolfe

With due respect to my colleague, I think to say that we have been doing that for sixty years does not necessarily mean it is the right thing to do or that there isn't a better way to do it. It wasn't all that long ago when doctors smoked Camels. These are the kinds of things we have to give time, a reasonable approach and a real thoughtful analysis. I agree 100% that natural gas is something that should be in our future, actually in our present. I just got back from Italy and it seemed like every gas station there had natural gas. The amount of natural gas that is available in Europe and other countries; we are lagging so far behind, but at what cost. I think we need to understand that pumping these chemicals sixty miles into the ground along with sand and other things who knows what is happening beneath the surface and how that will migrate and ultimately affect us. In many ways we don't know the results of our actions for many years. I think that it is important that we gather all the facts that we can.

Mr. Day

I agree 100% with you; however, thoughtful analysis should have the support of the levels of government that will provide the same. I think that the analysis takes the same amount of time that it took the dinosaurs to die; seep into the ground; and give us oil. I would just like to see some consistency from the levels of government that are supposed to be looking at this.

Chairwoman Cornell

I just think that forewarned is forearmed. I think we see the results of hasty actions with regard to the drilling in the ocean. We need oil. We need gas. We need all of these things, but we just need to be sure that we are not creating monsters that create some other kinds of problems.

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**LOCAL LAW NO. 2 OF 2013  
COUNTY OF ROCKLAND  
STATE OF NEW YORK**

(Introduced by Hon. Harriet D. Cornell)  
(Co-Sponsor: Hon. Alden H. Wolfe)

Chairwoman Cornell offered the following Local Law, which was seconded by Mr. Schoenberger and Mr. Wolfe and unanimously adopted:

A local law within the County of Rockland.

Be it enacted by the legislature of the county of Rockland as follows:

**Section 1. Name of local law**

This law shall be known as the "Keep Rockland County Safe from Hydrofracking By-Products Act."

**Section 2. Legislative intent.**

The wastewater from the gas and oil extraction process known as hydraulic fracturing, or hydrofracking is known to contain numerous carcinogenic chemicals as well as many other hazardous compounds. Unable to treat this hazardous waste effectively, extractors frequently truck wastewater to municipal wastewater treatment plants that are unable to effectively treat and remove many of the hazardous chemicals. Many municipalities have passed legislation banning hydrofracking wastewater from their wastewater treatment plants due to the potentially damaging impact of the waste on the plant infrastructure and equipment and because the plants are not equipped to adequately treat the waste.

Further, the brine from hydrofracking, water that has been trapped in the shale for thousands of years, is sold to municipalities as a deicing fluid and to control dust on roadways. In addition to extremely high levels of sodium, which is hazardous to drinking supplies, this brine has also been found to contain high levels of radioactive compounds. Many municipalities have banned the use of hydrofracking brine on their roads.

The Rockland County legislature believes that the treatment of hydrofracking wastewater in any (public or private) wastewater treatment plant in Rockland County should be prohibited and the use of hydrofracking brine to treat roads should be banned in Rockland County.

### **Section 3. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

- A. COUNTY** – The County of Rockland, New York.
- B. HYDRAULIC FRACTURING** - the fracturing of shale formations by man-made fluid-driven techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.
- C. NATURAL GAS EXTRACTION ACTIVITIES** - all geologic or geophysical activities related to the exploration for or extraction of natural gas or other subsurface hydrocarbon deposits, including, but not limited to, core and rotary drilling and hydraulic fracturing.
- D. NATURAL GAS WASTE** - shall mean any waste that is generated as a result of natural gas extraction activities, which may consist of water, chemical additives, or naturally occurring radioactive materials (“NORMs”) and heavy metals. Natural gas waste includes, but is not limited to, leachate from solid wastes associated with natural gas extraction activities.
- E. APPLICATION** - shall mean the physical act of placing or spreading natural gas waste on any road or real property located within the County of Rockland.

### **Section 4. Prohibitions.**

- A.** The introduction of natural gas waste into any wastewater treatment facility within or operated by the County is prohibited.
- B.** The sale of natural gas waste within the County is prohibited.
- C.** The application of natural gas waste on any road or real property located within the County is prohibited.

### **Section 5. Provision to be included in bids and contracts related to the construction or maintenance of County roads.**

- A.** All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain a County road shall include a provision stating that no materials containing natural gas waste shall be provided to the County.
- B.** All bids and contracts related to the retention of services to construct or maintain a County road shall include a provision stating that no materials containing natural gas waste shall be utilized in providing such a service.

**Section 6. Duty of Employees to be familiar with this Chapter.**

The County Executive or, at the County Executive's option, any Department head or commissioner appointed by the County Executive is authorized to develop policies to ensure county employees are familiar with the provisions of this Chapter and take such steps as are directed by the County Executive or such department head or commissioner to ensure a diligent effort by the County that materials supplied to the County or used on County roads or property comply with this law. This Section shall not excuse non-compliance by a contractor or vendor of the County.

**Section 7. Penalties.**

This law shall apply to any and all actions occurring on or after the effective date of this law. Any violation of Section 4 of this Chapter shall be an unclassified misdemeanor punishable by a fine not to exceed \$25,000.00 per violation and/or up to thirty days' imprisonment. Each sale and/or application of natural gas waste shall constitute a separate and distinct violation.

**Section 8. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 9. Effective date.**

This local law shall take effect sixty days after it is filed with the New York State Department of State.



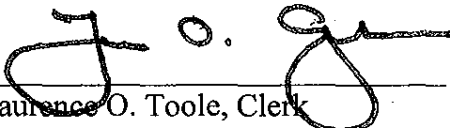
STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ROCKLAND )


I, the undersigned, Clerk to the Legislature of the County of Rockland DO HEREBY CERTIFY that the attached is an original Local Law of such Legislature, duly adopted on the 4<sup>th</sup> day of June 2013 by a majority of the members elected to the Legislature while such Legislature was in regular session with a duly constituted quorum of members present and voting.

I FURTHER CERTIFY that at the time said Local Law was adopted said Legislature was comprised of seventeen members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 5<sup>th</sup> day of June 2013.

Date sent to the County Executive:  
June 5, 2013

  
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Laurence O. Toole, Clerk  
Rockland County Legislature

  
\_\_\_\_\_  
Certified or Approved  
C. SCOTT VANDERHOEF  
County Executive, County of Rockland

7/1/13  
\_\_\_\_\_  
(date)

**LOCAL LAW NO. 2 OF 2013**