

Town of Danby Town Board  
Resolution No. \_\_\_\_\_, passed December 14, 2009

RESOLUTION FOR THE DANBY TOWN BOARD

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 Town of Danby, a community in Tompkins County with a population of approximately 3,500 is located above a portion of the Marcellus Shale formation, a low-permeability rock formation estimated to contain reserves of natural gas; 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 Town of Danby and

WHEREAS, the Town of Danby recognizes the need for interim energy sources as our state and country transition to widespread renewable energy use and 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 Town of Danby 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, land-use planning in the Town of Danby is guided by a Comprehensive Plan, and through the Comprehensive Plan process, Town of Danby residents have overwhelmingly identified environmental protection as a top priority for consideration in land-use and growth management policies; and

WHEREAS, in addition to residential, commercial, and planned development zones, the Town of Danby is also comprised of sizable areas either prioritized for conservation or unsuitable for surface disturbance, including 5,313 acres of Unique Natural Areas, 2,124 acres of NWI or NYSDEC wetlands, 7,655 acres of State park and forest lands, 4,560 acres of private conservation lands, preserves, forests, and camps, 6,060 acres of agricultural land, and 10,010 acres of land with slopes greater than or equal to 15%; and

WHEREAS, the Town of Danby has historically taken an active role in the siting and permitting of development within its borders; 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 is 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, according to the NYS Department of Transportation, New York State and Tompkins County reportedly contain the same alarmingly high percentage (37%) of structurally deficient or functionally obsolete bridges; 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, creating potentially dangerous conditions and a financial burden for 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 Town of Danby 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 Danby Town Board 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 Horizontal Drilling And High-Volume Hydraulic Fracturing to Develop the Marcellus Shale and Other Low-Permeability Gas Reservoirs, on the grounds that 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 Danby Town Board requests that no new permits be issued for horizontal drilling and deep well hydraulic fracturing until the aforementioned issues are addressed and regulatory requirements enacted to:

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 clean-up 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 energy companies to post performance bonds or acquire pollution clean-up insurance prior to initiating site work;
11. Require disclosure of development plans far enough in advance to allow for planning and bonding for bridge and roadway use; and
12. 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.

FURTHER RESOLVED, that a copy of this resolution shall be sent to Governor Paterson, Senator Jim Seward, Assemblywoman Barbara Lifton, Chair of Senate Committee of Environmental Conservation Marcellino, Chair of Assembly Committee on Environmental Conservation Sweeney, Attorney General Andrew Cuomo, DEC Commissioner Alexander Grannis, Representatives DeGette, Salazar, and Hinchey, Senators Schumer and Gillibrand, Congressman Arcuri, New York State Association of Towns, and Tompkins County Legislature