

November 2, 2011

By Fax

Honorable Andrew M. Cuomo
Governor of New York State
The Capitol
Albany, NY 12224

Dear Governor Cuomo:

I write to bring to your attention the Ferrugia family near Jamestown, NY that has not been able to drink their well water since 2007 after a gas extraction well was drilled approximately 300 feet from their home. According to Chautauqua County Health authorities, **“This is a well documented case showing drinking water impacts that are seemingly related to gas well development.”**

Your Department of Environmental Conservation (DEC) has refused to assist this family by investigating their problem or providing potable water despite **a)** pre-drilling baseline water testing documenting potable water, **b)** post-drilling confirmation of water contamination and **c)** additional extensive scientific and technical documentation.

I request that you provide this family with safe potable drinking water. You have made public pronouncements that you would not support any gas drilling in New York State that would threaten major sources of drinking water. New Yorkers will have no confidence that your pledge will be fulfilled if you do not make sure that this family’s water is safeguarded from gas drilling problems.

The information I provide for your review documents that DEC has routinely refused for decades to acknowledge, investigate or remediate reported gas drilling concerns in the areas of New York with the most production wells. This information refutes DEC Commissioner Martens’ assertion that Marcellus Shale horizontal hydrofracturing will be performed “safely” with DEC oversight.

DEC’s Division of Mineral Resources promotes oil and gas extraction while purporting to safeguard public health and the environment. Given the long-standing lack of regulatory enforcement for gas and oil extraction activities in New York, this potential conflict of interest must be fully resolved by the Revised Draft Supplemental Generic Environmental Impact Statement before New York’s *de facto* moratorium on Marcellus Shale horizontal hydrofracturing is lifted.

Revised Draft SGEIS’ (RD SGEIS) Erroneous Assertion

According to DEC's RD SGEIS:

“No documented instances of groundwater contamination are recorded in the Department’s files from previous horizontal drilling or hydraulic fracturing projects in New York. No documented incidents of groundwater contamination in public water supply systems were reported by the NYSDOH central office and Rochester district office... References have been made to some reports of private well contamination in Chautauqua County in the 1980s that may be attributed to oil and gas drilling.... The reported Chautauqua County incidents, the majority of which occurred in

the 1980s and which pre-date the current casing and cementing practices and fresh water aquifer supplementary permit conditions, could not be substantiated because pre-drilling water quality testing was not conducted, improper tests were run which yielded inconclusive results and/or the incidents of alleged well contamination were not officially confirmed.”

This statement is factually incorrect and deliberately misleading. Hundreds of natural gas and oil drilling, hydrofracturing and related problems have reportedly impacted water wells, homes and the environment in New York. Those problems are documented by DEC as well as health authorities in Chautauqua, Cattaraugus and Allegany counties, but DEC has long refused to acknowledge or remediate their impacts.

See: <http://www.toxicstargeting.com/sites/default/files/pdfs/jamestown/CCDOH-Complaint-Summary-for-FOIL-Response.pdf> ; http://www.toxicstargeting.com/sites/default/files/pdfs/allegany_county.pdf ; http://www.toxicstargeting.com/MarcellusShale/drilling_spills_profiles and http://www.toxicstargeting.com/sites/default/files/pdfs/jamestown/group1_reorder2-HL.pdf

The Ferrugia’s drinking water problem directly contradicts the RD SGEIS assertions about gas drilling incidents in Chautauqua County because it: **a)** occurred relatively recently and is currently on-going; **b)** was not prevented by any DEC regulatory safeguards or improvements to gas well drilling and production; **c)** was documented by pre-drilling drinking water quality baseline testing as well as post-drilling testing and **d)** was confirmed by local health officials authorized to respond to reported gas drilling hazards.

The DEC director of the Bureau of Oil and Gas Regulation dismissed Chautauqua County’s concerns and wrote that “...I conclude that the water quality impacts to Ferrugia’s water well are unrelated to gas well drilling or development and that consequently the Division will take no further action.”

DEC refused to revisit the matter even after each of its arguments were rebutted by a scientific and technical review conducted by the Chautauqua County Health Department, a professor in the Geosciences Department at SUNY Fredonia and the United States Geological Survey. As a result, the Ferrugia family is still unable to drink their polluted well water.

The above-referenced documents are posted at: <http://www.toxicstargeting.com/node/7084>

See an interview with Mr. Ferrugia at: <http://www.youtube.com/watch?v=0Ka0QJaKZ4s>

Conclusion

As you know, the Ferrugias are not the only New Yorkers that the DEC has refused to assist with gas drilling concerns and contaminated drinking water. I wrote to you in January 2010 when you were State Attorney General regarding a highly decorated and disabled Vietnam Marine Corps combat veteran whose drinking water in Candor, NY is ignitable. With all due respect, it is disgraceful that your Environmental Protection Bureau never met with Mr. Frederick Mayer or helped solve his problem. To this day, his drinking water remains a threat to his health and property value.

In conclusion, please fulfill your responsibility to protect New Yorkers from gas drilling hazards. Please provide safe, potable water to the Ferrugias and Mr. Mayer. Please require DEC's inadequate and incomplete RD SGEIS to be withdrawn and sent back to the drawing board in order to address DEC's inadequate enforcement efforts and to fulfill the Executive Order No. 41 mandate that DEC:

*"... make such revisions to the Draft SGEIS that are necessary to **analyze comprehensively the environmental impacts associated with high-volume hydraulic fracturing combined with horizontal drilling, ensure that such impacts are appropriately avoided or mitigated** (emphasis added) ..."*

Thank you for your consideration.

Yours truly,

Walter Hang
215 North Cayuga Street
Ithaca, NY 14850

Cc: David Ferrugia
Frederick Mayer