



The City of New York

# **Manhattan Community Board 1**

**Julie Menin** CHAIRPERSON | **Noah Pfefferblit** DISTRICT MANAGER

**The New York State Department of Environmental Conservation  
Public Hearing on  
High-Volume Hydraulic Fracturing Revised Draft SGEIS on the  
Oil, Gas and Solution Mining Regulatory Program**

**Testimony by Julie Menin and Catherine McVay Hughes,  
Chairperson and Vice-Chairperson,  
Manhattan Community Board 1**

**Wednesday, November 30, 2011, 1-4 p.m.  
Tribeca Performing Arts Center, 199 Chambers Street, New York, NY**

Good afternoon, Commissioner Martins. I am Julie Menin, Chairperson of Manhattan Community Board 1 (CB1), and I am accompanied by our Vice Chairperson Catherine McVay Hughes. We are here to testify on behalf of CB1 regarding the high-volume hydraulic fracturing Revised Draft Supplemental Generic Environmental Impact Statement (RDSGEIS) on the Oil, Gas and Solution Mining Regulatory Program to drill for natural gas in New York State. Thank you for this opportunity to testify before you because you are responsible for protecting New York State's surface and groundwater.

Our Community Board has passed numerous resolutions regarding this issue. On May 26, 2009, we called on the New York State Department of Environmental Conservation (NYSDEC) to prohibit the use of hydraulic fracturing in the New York City watershed. Our concern then and now was that hydraulic fracturing involves the injection of carcinogenic chemicals into the earth at extreme pressures. The composition of these chemicals is not publicly disclosed, and there has not yet been sufficient public review of the effects these chemicals can have on public drinking water. Without more information, we are greatly concerned that hydraulic fracturing in the New York watershed poses a serious risk of contamination to the drinking water of millions of residents in the greater New York City area.

Our concerns are founded on real evidence that natural gas drilling techniques have the potential to contaminate our drinking water. As recently as August 2, 2011, *The New York Times* published a graphic that analyzed how a water well in Jackson County, West Virginia, had been contaminated with fluid used in hydraulic fracturing.<sup>i</sup> The graphic described how the well could have become contaminated because of the extreme pressures with which chemicals are injected into the ground during hydraulic fracturing, creating underground fractures that extend as much as *2,500 feet horizontally*. Given that hydraulic fracturing may result in contaminated water over a large area, we are concerned that the RDSGEIS does not include strong enough safeguards to protect our drinking water. We are also concerned about new evidence that links hydrofracking to earthquakes. We believe that the risk of an increase in seismic events needs to be addressed.

After NYS DEC Commissioner Joe Martins released the 2011 Preliminary RDSGEIS for High-Volume Hydraulic Fracturing and New York City's Upstate Drinking Water Supply Infrastructure, we responded with another resolution, passed on July 26, 2011, calling for a public hearing in New York City and an extension to the comment period to review the RDSGEIS more thoroughly. The Board believes that this RDSGEIS represents the first steps toward lifting the New York State moratorium on hydraulic fracturing, and we are concerned that this process is moving too rapidly.

While we recognize that hydraulic fracturing will be prohibited in the New York City (and Syracuse) watersheds, primary aquifers and state lands, we have many concerns about protecting New York City's drinking water. Our concerns include, but are not limited to:

- Contaminated hydraulic fracturing wastewater
- Wastewater treatment plants currently designed for sanitary waste
- Limited DEC staff resources (including funding and inspectors) and regulatory enforcement
- Specific funding for corrective action
- Identification of source of water to be used during the hydraulic fracturing process
- Vulnerability to earthquakes due to hydraulic fracturing
- Inadequacy of prohibiting surface drilling within 2,000 feet of public drinking water supplies and 1,000 feet of primary aquifers
- Cumulative impacts, including air quality
- Same liability for both domestic and international companies
- Reliability of shale reserve estimates

In addition, the RDSGEIS fails to take into account the recent extreme weather events that resulted in many upstate communities being flooded. With climate change there have been more powerful storms which have increased the frequency of flooding. This flooding makes hydrofracking an even greater environmental risk as drilling pits may overflow and spill their toxic contents into flooded creeks, streams and rivers that feed watersheds. Given these recent events, floodplains maps need to be updated to reflect the current data rather than using historic trends.

The RDSGEIS also fails to take into account the current glut in the natural gas markets. Since 2008, the wellhead price of natural gas plummeted from nearly \$8 per thousand cubic feet to \$3.67 per thousand cubic feet.<sup>ii</sup> According to the U.S. Department of Energy, our country's supply of natural gas is sufficient for years and decades to come. We are currently drilling more gas than we could store, therefore we see no need to rush into drilling within the boundaries of our watershed.

Also, the wastewater from natural gas drilling operations containing high levels of chloride, toxic metals, petroleum hydrocarbons and radionuclides, are already being used by several upstate municipalities as part of their road and highway maintenance programs on thousands of miles of roads for dust control, winter de-icing or roadbed stabilization. This DEC-sanctioned maintenance practice should be of grave concern to all New Yorkers since this is yet another way

that the contaminants from the hydrofracking process may enter the drinking water supply. The RDSGEIS does not clarify how the millions of gallons of wastewater laced with potentially toxic chemicals will be stored and treated.

Community Board 1 passed another resolution at our meeting last week calling on the NYSDEC to select the “no action alternative” described in Section 9.1 of the revised environmental impact statement. This resolution, which is attached to our testimony, fully explains our reasoning in selecting this alternative, which would avoid potential significant adverse impacts identified in the RDSGEIS.

In the event that NYSDEC does not select the “no action alternative,” our resolution identifies points in the RDSGEIS that we believe should be withdrawn and revised. These points include the need for an enforcement mechanism to ensure compliance with mitigation measures, the need to fund this enforcement mechanism by pricing permits to gas companies rather than using tax revenues, and the need to expand the buffer zone surrounding the NYC Watershed to at least 8 miles to mitigate substantial risks. Additionally, our resolution recommended that the RDSGEIS be withdrawn and revised to include:

- A reexamination of the 1992 GEIS, which the RDSGEIS relies on significantly despite the changes that have occurred in the last 17 years.
- A clean-up escrow fund to be financed by fees paid by gas companies to assure that when the inevitable environmental accident occurs, funds other than taxpayer funds are available to pay for the cleanup and remediation of any such accident.
- An emergency notification system should be designed and put into place to address the inevitable environmental accidents.
- A more detailed analysis of hydrofracking waste-water treatment and disposal.
- A publicly accessible website that identifies the chemicals being used on a per-operation basis, including the identification of the specific location where such chemicals are being used.
- A full disclosure of the likely negative impact that gas leasing could have on the ability of the lessee to mortgage or sell the property subject to the lease.
- A more detailed analysis in Section 6.8 of the RDSGEIS, which addresses socioeconomic issues, to include the potential for worker injury and disease along with mitigation measures.

Water that is clean, safe and affordable is in the interest of every New Yorker. New York City is one of the few world-class cities that do not get water from the nearest river; the city water system is one of mankind’s great achievements in civil engineering, turning rainwater and gravity into the very lifeblood of our metropolis. New York State should not seek to close its budget gap in part by leasing mineral rights connected with its public lands in a manner that risks this great achievement and our environment.

We cannot forget that, “Water – by far the most valuable resource on this planet – is treated as if it did not have any value at all. We often do not even know the cost of providing it; the true number is buried under open and hidden subsidies, taxes, and the sunk costs of municipal and regional water and irrigation departments<sup>iii</sup>.” Therefore, we are concerned that as the

hydrofracking decision nears and “the energy companies have been pouring millions of dollars into television advertising, lobbying and campaign contributions” (NY Times, “Millions Spent in Albany Fight to Drill for Gas,” by Thomas Kaplan, 11/25/2011), that the quality of our water is not compromised for short term financial gain – and that any water that is used during the fracking process is charged a fee that truly reflects its value.

This proposal under consideration by DEC places an unnecessary and unconscionable risk on New Yorkers, as it only limits drilling to within a thousand feet of tunnels and aqueducts that deliver water to our city, despite the requested minimum eight-mile buffer zone. Recently the Delaware Governor Jack Markell announced that Delaware would vote 'no' on the current regulations for hydrofracking in the Delaware River Basin, calling instead for a full study of impacts on the Basin before proceeding. We likewise urge DEC and Governor Cuomo to proceed with extreme caution in the NYC Watershed given the grave risks that have been identified.

Thank you for the opportunity to testify today.

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<sup>i</sup> The New York Times, “Contamination from Drinking,” by Frank O’Connell and Haeyoun Park, August 3, 2011

<sup>ii</sup> U.S. News and World Report, “No Evidence of Groundwater Contamination from Fracking,” by Daniel Simmons, November 29, 2011

<sup>iii</sup> McKinsey Quarterly 2010, Number 1; Special report: “The water imperative,” p. 79.