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## Gov. Paterson Vetoes NY Drilling Moratorium, but bans High-Volume Hydrofracking Until July 2011



Wednesday, 01 December 2010

Written by [Peter Mantius](#)

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Photo: <http://www.marcellusprotest.org>

Gov. David Paterson on Dec. 11 vetoed a bill that would have banned a wide range of gas drilling in New York State until the spring, but he placated environmental groups by issuing an order the same day that bans high-volume, horizontal hydrofracking in the state through July 1, 2011.

The natural gas industry had been lobbying Paterson to veto the bill because it would have interfered with current drilling projects.

Environmental, labor and liberal political action groups generated a groundswell of calls and emails urging state legislators to pass the bill aimed at delaying permits for a controversial drilling technique in the state's gas-rich Marcellus Shale.

A Thanksgiving weekend push by the Working Families Party and MoveOn.org helped raise 52,000 signatures on a petition calling on the Assembly to act, and it responded with a 93-43 vote in the early hours of Nov. 30.

"I think that's what put Shelly (Assembly Speaker Shpeldon Silver) over the edge," Ramsay Adams, executive director of Catskill Mountainkeeper, said of the petition. "He had held his cards very close until the very end." Catskill Mountainkeeper and other environmental groups had been lobbying for months for a



This article is part of an ongoing investigation into gas drilling in New York's Marcellus Shale.

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moratorium on hydraulic fracturing, or hydrofracking, in the New York Marcellus.

Although the Senate passed the bill in a bipartisan 48-9 vote late in the summer, the effort seemed to stall out in the following weeks. But the grass roots efforts appeared to gain energy after Paterson made strong anti-drilling comments in a Nov. 24 radio interview. Paterson, who had called the legislature into special session to deal with budget issues, said of hydrofracking:

"Even with the tremendous revenues that will come in ... we're not going to risk public safety or water quality, which will be the next emerging global problem after the energy shortage. At this point, I would say that hydrofracking opponents have raised enough of an argument to thwart us going forward at this time."



Photo: Flickr / jcommaroto

Before the radio interview, Paterson had been sending mixed signals on how the state should regulate gas drilling. His 2009 energy plan called for the safe development of Marcellus gas deposits, but his recent insistence on drastic staff cuts in Department of Environmental Conservation, the industry's state regulator, undercut that goal.

Paterson's recent anti-drilling stance no doubt alarmed the Independent Oil and Gas Association of New York State. The industry trade group issued an "action alert" to its 300 member employers to urge state legislators to vote against the moratorium bill on the grounds

that it was "technically flawed" and would jeopardize 5,000 industry jobs.

"We're now calling on the governor to veto the bill and for the legislature to let the DEC finish its work (writing rules for hydrofracking)," said Jim Smith, a spokesman for the IOGA-NY.

Smith said the bill's language is unnecessarily broad and its impact could reach far beyond supporters' stated target of horizontal hydrofracking in the Marcellus. "It does not differentiate between vertical and horizontal wells," Smith said. Nor does it recognize that less invasive forms of hydrofracking have been used in New York for years without causing widespread alarm.

For example, the IOGA-NY noted, 90 percent of the 580 gas drilling permits New York granted in 2009 were for wells that were hydrofracked. Smith said those wells couldn't have won permits if the bill the Assembly just passed had been in force at the time.

"That puts 5,000 workers and 300 companies in jeopardy," Smith added.

But Adams disagreed with Smith on the question of whether the new legislation would affect existing wells or even derail permits for new wells just like them. "The IOGA is spreading fear that this is going to shut them down," Adams said of the companies operating vertical wells. "But this bill doesn't have a bearing on current drilling that's not high-volume hydrofracking in the Marcellus."

Adams asserted that the DEC would treat new applications for vertical wells no differently after the bill is signed into law. But Smith insisted the bill put his clients in jeopardy.

Paterson, who took office March 2008 following the Eliot Spitzer call girl scandal, vetoed the bill and issued his executive order banning high-volume, hydrofracking only three weeks before his term as governor ends. Governor-Elect Andrew Cuomo, who was elected Nov. 2, will succeed Paterson on Jan. 1.

Both sides of the gas drilling controversy are looking ahead to the Cuomo Administration.



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While the IOGA will continue to press Paterson for a veto, Smith said, "We will focus our efforts on the governor-elect and his staff," the IOGA's Smith said. Catskill Mountainkeeper's Adams is hopeful about Cuomo: "We're cautiously optimistic," Adams said. "We believe Andrew Cuomo will do the right thing and get a true understanding of this issue...We're giving him the benefit of the doubt. Certainly some of the people on his transition team are people we respect. That's a signal that he's listening."

The IOGA would prefer to see the legislature step back from the issue entirely and allow the DEC to continue with its multi-year process of developing hydrofracking rules within its proposed supplementary generic environmental impact statement for drillers. When it's done, Marcellus shale hydrofrackers hope to use the SGEIS to move quickly through the well permitting process.



Photo: Pat Arnowsm

The agency issued a draft SGEIS more than a year ago. During most of 2010, DEC officials have been reviewing thousands of public comments -- many of them highly critical -- in order to make final adjustments to the document. DEC officials said earlier this year that they expected to complete the SGEIS by early 2011 and begin issuing hydrofracking permits for the Marcellus shortly afterwards.

Catskill Mountainkeepers and other groups opposed to hydrofracking see the moratorium as a stopgap. Their long-term goal is to hold off Marcellus permitting until the federal Environmental Protection Agency issues the results of its multi-year study on the environmental effects of the latest hydrofracking techniques. That report is due in 2012.

Anti-drilling forces were encouraged to hear Silver, the powerful speaker of the New York Assembly, say after the moratorium vote that "my colleagues and I resisted pressure from the oil and gas industry and passed this crucial moratorium while (the EPA) conducts a safety review."

This statement comes after DCBureau ran a series of stories about conflicts of interests between New York legislators and gas drilling companies.

Adams said he expects the industry to continue to fight to remove all the obstacles that prevent the issuance of permits for Marcellus hydrofracking.

"We can count on seeing a blanket attack including pro-drilling advertising, publicity, lobbying and serious back room arm-twisting," Catskill Mountainkeeper said in a statement Nov. 30. "We should not underestimate our adversaries or the depth of their resources."

Once Cuomo takes office in January, the gas drilling war in New York is likely to continue on two fronts: the SGEIS and the need to restaff the DEC.

The industry wants to see the SGEIS process completed as soon as possible, while opponents want it scrapped.

Meanwhile, both sides will fight over how to rebuild the gutted and understaffed DEC.

According to a internal DEC memo leaked in October, the cutbacks ordered by Paterson threaten the agency's ability to carry out its core environmental oversight duties. Days after the memo became public, the Paterson administration fired the DEC commissioner, Pete Grannis.

The IOGA has acknowledged the problem of understaffing at the DEC and proposed a plan to fix it. The drilling trade group said Marcellus drilling permit fees could be used to fund a significant expansion of the state's lead environmental agency. Adams said Cuomo needs to go much further. He said his group will push Cuomo to "clean up" the DEC's Division of Mineral Resources because its "entrenched civil servants" look favorably on the gas drilling industry's agenda.

"They've gotta go," Adams said. "Cuomo's got to put in a team of people whose No. 1 priority is protecting the environment, not selling minerals to industry."

Despite recent staff cutbacks, the DEC did issue a ruling on Nov. 24 that shows it does not necessarily back away from labor-intensive new challenges. After studying for more than a year the details of a plan to store liquid propane and butane in salt caverns near Watkins Glen, N.Y., the agency decided that the project must have a formal environmental impact statement.(see link)

The ruling will further delay the plans of Inergy, a Kansas City-based energy storage and transmission company. Inergy had told securities analysts in February that it hoped to have the project underway by the summer of 2010.



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**Larry Bennett** 3 months ago

Accurately written and on target. As a NY citizen and employee of an upstate business who existence is threatened by fracking, I am angry that Gov. Paterson is treating the bill as a political football. Paterson, always adept at thumbing his nose at the state house, is now doing so at millions of New Yorkers opposed to fracking.

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