



Issue 83
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OUR
WATER
OUR
FUTURE

Community Watersheds Clean Water Coalition, Inc.



A Year of Stretching The Boundaries

Our local campaigns to preserve open space which protects our precious water resources are ongoing and, following through on our name and mission change, we joined campaigns by other groups in-state and out as well as in the Climate March. In addition, we are challenging the gas industry in our lawsuit now on appeal. The ruling came down as “not ripe” meaning unless fracking harms the state, we cannot challenge it. In spite of this roadblock, we push forward because in my opinion, this was a lame decision and tells us we have a solid case.

Fracking for natural gas is a major threat to clean water and although it has not taken place so far in New York state, we receive radioactive waste from Pennsylvania. In addition, the Federal Energy Regulatory Commission is in the process of permitting the building of the Algonquin pipeline which threatens the Croton Watershed; and the Constitution Pipeline which could transport Canadian tar sands for export. The stated reason for the Algonquin’s vastly larger pipeline is future higher demand for gas. Among the many problems we have emphasized with pipeline infrastructure is the fact that ALL pipelines leak. An August 1, 2013 report prepared for



by Fay Muir
President
CWCWC

Senator Ed Markey of Massachusetts illuminates the fact that gas companies have little incentive to replace leaky pipes because they are able to pass along the cost of lost gas to consumers. As a consequence, American consumers pay about a billion dollars a year for natural gas that never reaches their homes.

Here are two points made in the report:

- “Gas distribution companies in 2011 reported releasing 69 billion cubic feet of natural gas to the atmosphere, almost enough to meet the state of Maine’s gas need for a year...”
- From 2000 through 2012, there were several hundred explosions which killed 116 people.



Federal regulation only requires prompt repair of hazardous leaks that pose imminent threat. Non-hazardous leaks have no repair/replacement requirements, enabling such leaks to generally go unrepaired.”

Governor Cuomo has said little about his second term agenda having delayed decision on natural gas fracking. I do believe this may be part of the reason

Cuomo drew one million less votes than he did for his first term. To quote my venerable colleague, CWCWC’s Vice

Readers are invited to send comments, articles, feedback by email to fumir@aol.com or by conventional mail to:

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President David Ferguson, “Why would the gas industry have gone to the trouble and expense of getting Congress to exempt it from the Clean Water Act, Safe Drinking Water Act, Clean Air Act, among other environmental laws.” We trust the governor will think of these things before making his final decision.

Many strides have been made in the renewable energy industry so solar, wind and biofuels are now equal or very close in price to natural gas without the tax subsidies given to the gas industry. We encourage you to investigate

these possibilities for your fuel source as well as exploring conservation. The natural energy sources are endless and they have little harmful effects on the health of our planet and consequently on our physical health. In addition, the billions of dollars spent because of disasters from climate change are borne by everyone. Also a dollar amount cannot be placed on the trauma experienced, the lost lives and health effects on individuals.

Thank you for your efforts so far and please continue your resolve to ensure a better future for all.

American consumers pay about a billion dollars a year for natural gas that never reaches their homes.

Preparing to Oppose a Fracking Frenzy in New York State

When Governor Cuomo announced his decision not to lift the moratorium on fracking in NYS until “after the election”, it was clear that his long-term excuse that the study on fracking’s health effects needed first to be completed was not the real reason. Now, the election is over and the Governor is free to go ahead with what he stated so clearly in the 2014 Draft New York State Energy Plan (“Plan”): “Electric and natural gas delivery infrastructure is the secure backbone of the energy system, allowing consumers to easily connect to efficient, affordable, reliable, and increasingly clean energy sources” (Vol. I, page 22). A link to CWCWC’s comments on the Plan



*By Marian Rose, PhD,
President Emeritus
and Director CWCWC*

can be found on our website under “Issues”.

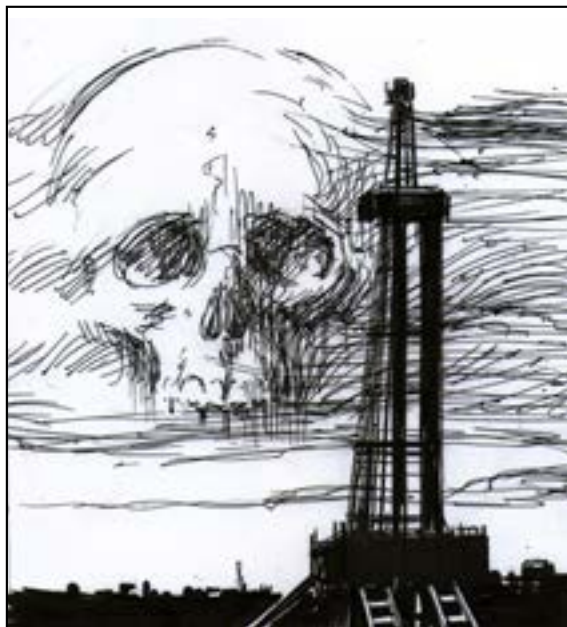
The Plan extols the need for NYS to use “clean” energy sources to reduce air pollution and slow global warming. However, it is extremely vague regarding what is meant by “clean” energy. Apparently, natural gas is regarded as “clean”. Yet, it is well known that the natural gas from NYS’s and from Pennsylvania’s Marcellus shale, the latter that we are

already importing, can be highly radioactive – up to 1,000 times beyond what is considered a safe limit (see Chapter 6, Appendix 13 of NYSDEC’s Preliminary Revised Draft Supplemental GEIS, June 30, 2011). One of the decay products, Ra-226 decays further into radon, a gas that can be a leading cause of human lung cancer, when trapped within a confined area.

An energy plan that relies, to a large extent, on natural gas will need a supporting network of pipelines for the transmission of the gas, and sufficient disposal sites to accommodate the wastes. Without this infrastructure firmly in place, “fracking” in NYS’s Marcellus shale would not be possible.

A hugely destructive pipeline for transporting natural gas, the Constitution Pipeline, and the expansion of another, the Spectra Algonquin Incremental Market (AIM) pipeline together with its existing compressor stations etc., are being proposed.

The Constitution Pipeline with which CWCWC



became involved in 2012, and now has intervener status, is a proposed 125-mile, 30-inch diameter pipeline that would transport natural gas supplies from a small area in northern Pennsylvania to Schoharie County, NY from where the gas would be sent to northeastern markets. "This new pipeline would cut through 1,862 acres of land in Broome, Chenango, Delaware and Schoharie Counties in NYS, and Susquehanna County in PA. Only 9% of the proposed 124-mile route utilizes existing rights-of-way, with the remainder decimating hundreds of thousands of trees in over 1,000 acres of forest land... Consequently, rather than public necessity, the pipeline is simply a convenient method of gas transport allowing the industry to maximize short gain revenues at the permanent expense of landowners in New York spanning a hundred mile corridor". (from submission by CWCWC attorney James B. Bacon, Esq., P.C., to the Federal Energy Regulatory Commission, FERC, April 7, 2014). On October 24, 2014, the Federal Energy Regulatory Commission (FERC) that regulates, among others,



the interstate transmission of natural gas, issued its Final Environmental Impact Statement (FEIS). Unfortunately, the National Environmental Policy Act (NEPA) provides for no public comment on the FEIS... Reports indicate that FERC will grant a conditional certificate at their December meeting (12/18/14). Interveners will then have 30 days to petition FERC for a rehearing. FERC has 30 days to respond. If FERC denies the petition for rehearing, an appeal may be filed with the DC Circuit Court of Appeals within 60 days of the denial (thanks are due to attorney James B. Bacon for clarifying the process). Given FERC's history of granting permits, it is likely that CWCWC will be faced with the choice of an expensive lawsuit, or having to accede to the construction of this super-destructive pipeline that will help promote fracking in NYS.

The same process applies to the Spectra Algonquin Incremental Market (AIM) pipeline project that is described in another article in this issue. CWCWC's role, again as intervener, has been to critique the pipeline's negative impacts to the Croton Watershed and its reservoirs, including the lack of an adequate storm water pollution prevention plan, and the required analysis of phosphorus loading to the New Croton Reservoir. Several threatened and endangered species within the watershed were identified by Dr. Erik Kiviat, Executive Director of Hudsonia. Not one of these important considerations had been mentioned in the Spectra AIM application to FERC.

Several threatened and endangered species within the watershed were identified by Dr. Erik Kiviat, Executive Director of Hudsonia. Not one of these important considerations had been mentioned in the Spectra AIM application to FERC. And FERC has chosen to ignore our comments.

As mentioned earlier in this article, the ability to dispose safely of fracking wastes in suitable landfills is another essential prerequisite to fracking. PA regulations do not permit radioactive fracking wastes from PA wells to be stored in their landfills. But NYS has been accepting drill cuttings from PA fracking sites for the last 5 years, at least, even though they can

originate from wells with high levels of radioactivity from materials such as Radium-226 that decays into radon, a dangerous carcinogen that causes lung cancer. NYSDEC circumvents this problem by claiming that these wastes have normal background levels of radioactivity, and so may be classified as "industrial", or

Naturally Occurring Radioactive Material (NORM), and disposed of as such. However, the troublesome high levels of radioactivity in Marcellus shale drill cuttings convinced CWCWC to test the leachate emanating from a landfill accepting Marcellus shale waste from PA, as well as the leachate accepted at a nearby Waste Water Treatment Plant.

After a year of intensive collection of both water and sediment samples in both these areas, both upstream and downstream from the WWTP, and at various points surrounding the landfill, results showed that radioactivity in both sediment and water samples was from areas near the landfill alone up to 1.5 to 3 times higher than background. This proves that NYSDEC is allowing radioactivity above normal background levels into the environment. Therefore, it should not be treated as NORM. It should be handled as Technically Enhanced Naturally Occurring Radioactive Material (TENORM) and handled as High Level radioactive waste rather than as industrial waste. This will mean that the waste has

to be transported and stored according to significantly more rigid rules than most industrial wastes.

Our next step is to start court proceedings to obtain a declaratory judgment stating that the imported fracking wastes from PA can no longer be treated as

NORM. Our attorney, James B. Bacon, will act as lead attorney. We are fortunate to have the help and advice of our colleague, Gary Abraham, Esq., of Sierra Club. Finally, our lawsuit against Compulsory Integration (CI) has been filed in the Appellate Division of the NY Supreme Court. A pro or

con decision is anticipated by July 2015.

In the pro-fracking climate that will ensue as a result of the recent elections, we ask our friends and colleagues to stand by us.

Yet, it is well known that the natural gas from NYS's and from Pennsylvania's Marcellus shale, the latter that we are already importing, can be highly radioactive – up to 1,000 times beyond what is considered a safe limit

Help Us Stop This Dangerous Natural Gas Project!

This year has been dominated by the proposed, very dangerous natural gas infrastructure expansion project in our own backyard. Ongoing and intensive outreach continues by concerned residents and elected officials to the Federal Energy Regulatory Commission (FERC) to issue a needed Supplemental Environmental Impact Statement (SEIS) and a new 90 day comment period on Spectra Energy's Algonquin (AIM) pipeline expansion project.

The proposed pipeline's 200% capacity increase from its 26" diameter pipeline to a 42" diameter and a high pressure increase of 26% would make it an enormous transmission conduit. It is to carry huge new supplies of Pennsylvania fracked gas which is high in radon content that will enter kitchens from stoves and other appliances of consumers signing up for this gas being promoted at current low domestic prices. Radon is the leading cause of lung cancer in non smokers.

The 42" pipe is to run through Rockland County to Stony Point where it crosses under the CSX rail line carrying crude oil bomb trains, under the Hudson River into Verplanck 450 feet from the



*Suzannah Glidden,
Treasurer
CWCWC*

Buchanan Verplanck Elementary School, 150 feet from Indian Point Nuclear Facility with its 40 years of spent fuel rod pools in close proximity to two fault lines, through Peekskill, Blue Mountain Reservation and into Yorktown. An additional 42" section is planned from the large compressor station in Southeast (Putnam County) to Danbury, CT. The pipe continues through CT, RI and MA.

Another expansion project of the same Algonquin pipe called Atlantic Bridge will immediately follow expanding the pipe from Yorktown to Somers. A third expansion, Access NE, will further expand the pipe about which we have no present details. The Stony Point and Southeast compressor stations as well as metering stations will be greatly increased in both the AIM and Atlantic Bridge expansions. This enormous expansion endangering all of us who live near it is ostensibly to supply New England with increased consumer gas supply but far exceeds that purpose. The real purpose is for export <http://sape2016.org/resources/export/> from New Brunswick and Nova Scotia which will bring

the industry the profit it seeks and which will most probably double the price domestically.

Missing in the draft EIS was critical information the public deserves to know and comment upon as well as the risk and health assessments and baseline air and water testing called for in Putnam, Westchester, Rockland and town Resolutions <http://sape2016.org/resolutions/> The fatally flawed dEIS also didn't contain analysis of the cumulative impacts of both the AIM and Atlantic Bridge projects, the latter being illegally segmented (separated) from the AIM review process.

Also included in resident and elected officials outreach is their request to the AIM project's Involved Agencies to withhold approval permits until the Resolution measures are fully conducted and reviewed.

However, as of this date, FERC intends to proceed to issuing its Final EIS as soon as December and one Involved Agency has issued its approval permit - NYS Department of State on the Hudson River crossing. NYS

Department of Conservation is another Involved Agency and is one that supports our concerns. It has agreed to hold a public hearing on air impacts from compressor and metering stations that far exceed threshold limits. These emissions put children, the elderly, and populations with cardiovascular, pulmonary and other health compromises at particular risk. However, even these health-damaging impacts may not prevent project approval.

Will you join us in calling upon our federal officials to slow down this industry/ FERC fast track review and approval process? We need our federal officials to intervene on our behalf to protect our health and safety! Ask them to secure a Supplemental EIS and 90

day comment period from FERC that contains all missing information and the risk and health assessments and baseline air and water testing called for in the Resolutions.

Please contact them at

Susan Spear for Sen. Kirsten Gillibrand susan_spear@gillibrand.senate.gov

Cody Pelosi for Sen. Charles Schumer Cody_Peluso@schumer.senate.gov

Pat Keegan for Congresswoman Nita Lowey pat.keegan@mail.house.gov

Genevieve Kessler for Congressman Sean Maloney Genevieve.Kessler@mail.house.gov

The proposed pipeline's 200% capacity increase from its 26" diameter pipeline to a 42" diameter pipeline and a high pressure increase of 26% would make it an enormous transmission conduit



A Tumultuous Action Packed Year

The year 2014 has seen the rise and demise of projects that have been on the Putnam County scene for several years and some recent environmental-specific Legislative Resolutions and Executive Actions They are:

1. Patterson Crossing - at a recent meeting of the Physical Services subcommittee of the Legislature, the Director of the Economic Development Corporation revealed that "retail in Putnam is doomed" and that Patterson Crossing, a 400,000 sq. ft retail development with COSTCO as an anchor on the Kent/Patterson line first proposed in 2002, may be on life support. Alternative uses for the property were being examined. Although the developer discounted the report, he has had a dismal track record of failed proposals with Stateline Retail in Southeast; the hotel/senior citizen complex in Carmel on the books since 2000; Union Place, another mega mixed use development on 300-acres on the Mahopac/Westchester County border.

Mr. Camarda has, however, received a one-year re-approval extension from both the Kent and Patterson Planning Boards. Together with stalwarts of the Stop Patterson movement, we attended the Kent meetings and have written to the Board expressing our concerns over the continuation of this project. Over the years, we have expressed concerns over the scale and scope of these projects and even opposition as in the case of Patterson Crossing. and their social, environmental and quality of life impact on the residents.

Over the years, we have expressed concerns over the scale and scope of these projects and even opposition as in the case of Patterson Crossing. and their social, environmental and quality of life impact on the residents.

2. Crossroads 312 is a hotel/retail development, first proposed some five years ago by Southeast developer, Harold Lepler. It is approximately one mile from the Middle Branch Reservoir. Through the efforts of the Coalition, CWCWC and a local organization, the Southeast Residents for Responsible Development, we have been able to whittle away at the project. The hotel first proposed as a seven-story 200 room star on a hillside, has been reduced to 100 rooms and 4 stories. However, the retail portion has only been reduced from 183,000 to 143,000, a huge concession in the developer's eyes. The project needs a zoning change from Rural Commercial to Highway Commercial 1, in order to accommodate the scale of



*Ann Fanizzi
Director
CWCWC*

the retail portion. And most troublesome, the applicant is also requesting an amendment to the town's ridgeline protection law.

We are strongly opposed to the changes as it would affect all other areas along with Rte 312 corridor and other portions of the town. Additionally, huge road configurations will have to be made, widening the entire corridor from Rte 6 in Carmel to Rte 22 in Southeast with the installation of five traffic lights alone on Rte 312. The increase in pavement and vehicular traffic will

only compromise the effort by the town to decrease phosphorous in the Middle Branch watershed. We have sent out letters to the residents of the side roads along the RTE 312 corridor and residents of the Lake Tonetta community alerting them as to the traffic consequences and visual and environmental impact should this development move forward as proposed.

In terms of SEQRA, the developer has replied to resident comments and in July submitted the FEIS, together with traffic and stormwater volumes. We were not aware of this submission until October. However, these volumes, numbering three, have not been posted on the town's website nor have they been available in the Library. I and other concerned residents have had to examine as best as we could the volumes at various times. I have protested at Town Board meetings and residents have written letters as had the Supervisor, Tony Hay but to no avail. However, Town Consultant reports - Planning, Wetland and Engineering are available.

In light of its proximity to its twin - Brewster Highlands - another 360,000 sq. ft regional retail center on Rte 312 which participated in the phosphorous offset program and as mentioned above, the Middle Branch Reservoir and statements from the Town's planner, that there is an infiltration problem which must be addressed and the need to access sewer and water from neighboring Terrevest development, it is absolutely imperative that a thorough examination of the stormwater plans be made.

3. Tilly Foster Farm - 1000 petition signers on change. org have finally persuaded Putnam County Executive, Odell to re-institute the horse riding center at Tilly. It has been an exhausting and frustrating fight with incredible support from Putnam County residents and from Westchester County including Marian Rose and

Suzannah Glidden. I have had meetings with DEP and Watershed Agricultural Council and Boards of Cooperative Educational Services (BOCES) directors in order to forestall the impending proposals to “repurpose the farm” in the memorable words of the CE into a BOCES satellite campus and government offices which would architecturally “redevelop” two iconic buildings, The Lodge and The Cantina, increase foot and vehicular traffic and forever change the landscape and serenity of the Farm, The purpose of the acquisition is was to have preserved the Farm not to “repurpose” or “redevelop” it into a caricature of one.

4. Clean Water Act Changes

Citing “inaccurate and misleading” assertions in a resolution that attacked federal efforts to enhance the Clean Water Act, Putnam County Executive Mary Ellen Odell recently vetoed the measure, which the Putnam County Legislature had passed Oct. 7 after months of dithering.

Odell also vetoed a second resolution, likewise passed by the legislature Oct. 7, that endorsed legislation passed by the House of Representatives to deny funds to the Federal Energy Regulatory Commission (FERC) for purposes of imposing higher energy rates in the Hudson Valley. While concurring about the appropriateness of countering FERC, she faulted the legislature for not mentioning her own opposition to FERC and for only directing concern to Sen. Charles Schumer while ignoring Sen. Kirsten Gillibrand.

The statement objecting to FERC passed unanimously and that veto could presumably be overridden. But the measure opposing the Clean Water Act revisions squeaked by on a 5-4 vote, making a two-thirds vote to override problematic.

The legislature’s Clean Water Act resolution attacked a draft rule or regulation released last March by the Army Corps of Engineers and Environmental Protection Agency intended to strengthen elements of the Clean Water Act, a landmark national antipollution law passed in 1972. The two federal agencies claimed their draft revision would not place under federal purview any waters historically out-of-bounds but, rather, would define and clarify the law’s scope.

In its resolution, the county legislature argued that

Their proposal would bring seasonal streams, wetlands near rivers, some canal-like ditches and similar water features under the law’s protection. Court decisions in recent years either limited the law’s reach or created confusing complexity, or both, and the EPA and Army Corps portrayed their revisions as setting things straight.

Also that the draft rule would “capture a significant number of Putnam County Highway activities and transportation infrastructure,” apply to projects “which

do not currently require such oversight, at great expense so the taxpayers of Putnam County, with little — if any — substantive environmental benefit,” and represent “significant ongoing maintenance costs and delays to county citizens.”

Odell wrote to the legislature that she vetoed the resolution “based on inaccurate and misleading statements” in it. She focused on several points she found objectionable, including “an inaccurate claim that the proposed regulation would ‘now capture a significant number of Putnam County Highway activities and transportation infrastructure’” and the resolution’s contention that federal oversight would expand “at great expense to the taxpayers.”

Actually, Odell told the legislature, according to the EPA, the changes do not apply to waters not historically covered by the Clean Water Act and would actually decrease federal jurisdiction over some highway ditches and similar water features. Likewise, she wrote, “there is no indication that the regulation will cause any ‘great expense’ to Putnam County’s government and taxpayers. In fact,” she added, “the regulations will provide greater clarity and consistency in its application, continuing to ensure that the county’s waterways remain clean.”

philipstown.info.com

5. Putnam County called for studies and insurance prior to approval of Spectra Energy’s natural gas Algonquin pipeline expansion (AIM).

A resolution passed the Putnam County Legislature by a vote of 8-1 on May 6, 2014 calling for additional studies prior to approval of expansion of Algonquin Pipeline. The resolution is a recognition by Putnam legislators that there are many unresolved questions and concerns regarding the Spectra Energy Partners Algonquin Incremental Market (AIM) Project, and that before this project goes forward, actions must be taken to protect public health and safety, as well as property values in our region. These include the following:

- An independent air emissions baseline assessment;
- A comprehensive and transparent Health Impact Assessment (HIA), by an independent party, including a cumulative impacts analysis;
- An independent risk assessment of a potentially catastrophic explosion of the 42” diameter high pressure pipeline to be built in close proximity to the Indian Point nuclear power plant and its radioactive spent fuel rods;
- A full cost analysis of emergency response measures; and proof of insurance or self-insurance by Algonquin Transmission LLC and Spectra Energy Partners.

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The Coalition strives to protect and improve the waters of New York City's Croton Watershed as well as all New York State Watersheds. We are an alliance of individuals and groups who believe that safe, clean and affordable drinking water is a basic human right.

Community Watersheds Clean Water Coalition Membership Application

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Address: _____

City: _____ State: _____ Zip: _____

Email: _____

- | | | | |
|---|-----------|--|-----------|
| <input type="checkbox"/> Group/Coalition Membership | \$50/year | <input type="checkbox"/> Students/Seniors | \$10/year |
| <input type="checkbox"/> Family Membership | \$25/year | <input type="checkbox"/> Other | \$ _____ |
| <input type="checkbox"/> Individual Membership | \$20/year | <input type="checkbox"/> Additional Contribution | \$ _____ |
| <input type="checkbox"/> Renewal | | <input type="checkbox"/> New Membership | |

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