



CROTON WATERSHED
CLEAN WATER COALITION, INC.
9 Old Corner Road, Bedford, NY 10506

January 26th, 2011

Mr. Rob Messenger
Mr. Justin Perry
Strategic Plan for State Forest Management
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Re: Findings for Final Strategic Plan for State Forest Management

Dear Mr. Messenger,

The Croton Watershed Clean Water Coalition, Inc., CWCWC, is a coalition of over 50 groups - community, housing, environmental and religious - throughout NYC, Westchester and Putnam Counties. Our aim is to protect and maintain the high quality of our source water, primarily in the Croton Watershed, but also in other watersheds throughout NYS.

The Management Plan's Stated Goals

The Management Plan emphasizes the importance of soils that "provide the foundation, both figuratively and literally, of forested ecosystems...They filter and store water and also provide and recycle nutrients essential for all plant life...The important role forests play in producing high quality fresh water and the value of water itself, cannot be overstated."

DEC's Management Plan places strong emphasis on the importance of biodiversity in order to maintain ecosystem health --in this case, to maintain a healthy forest. "An ecosystem management approach requires managers to consider the thousands of forest-dependent species from soil micro-organisms to large mammals, fungi to trees and insects to humans...Sustainable landscapes...must have core blocks of minimally fragmented habitat."

Coalition members: ADK Mohican * Audubon Society: Bedford, Bronx River/Sound Shore, Central Westchester, Hudson River, Saw Mill River groups * Bedford Barrow Commerce Block Association * Bedford Garden Club * Bronx Greens * Catskill Heritage Alliance * Church of Holy Apostles * Citizens for Equal Environmental Protection (CEEP) * Clean Water for the Bronx * Coalition for the Preservation of Rolling Greens * Concerned Citizens for Open Space * Concerned Residents of Carmel-Mahopac * Concerned Residents of Kent * Concerned Residents of Southeast * Council of Chelsea Block Associations * Croton Heights Community Association * Dickerson Mountain Preservation Association * Diocesan Missionary & Church Extension Society * Episcopal Diocese of New York * Federated Conservationists of Westchester County (FCWC) * Friends of the Great Swamp (FrOGS) * Friends of Hudson River Sloop Clearwater * Friends of Hudson River Sloop Clearwater - NYC * George Nikitovich, *et al* * Goldens Bridge Community Association * Grassroots * Hands Across the Border (HAB) * HDFC (Housing Development Fund Cooperative) Council * Hudson River Sloop Clearwater * Huntersville Association * INTERLOC * Jay Heritage Center * Junior League of Westchester-on-Hudson * Lake Dutchess Association, Inc. * Metropolitan Council on Housing * Putnam County Coalition to Preserve Open Space * Queens Civic Congress * Regional Review League - Bedford * Rusticus Garden Club * Sierra Club: Atlantic Chapter, Lower Hudson, NYC, Ramapo-Catskill groups * Shorewalkers, Inc. * Southern Yorktown Homeowners' Association * Teatown Lake Reservation, Inc. * Trout Unlimited: Croton Watershed and NYC Chapters * Westchester Land Trust * Yorktown Land Trust

The Management Plan has to oversee and administer a "sustainable forest program" that "maintains certification of that management under the most current and applicable standards set forth by the Forest Stewardship Council and Sustainable Forestry Initiative."

Among the Forest Stewardship Council's ten principles,

PRINCIPLE # 5: BENEFITS FROM THE FOREST - Forest management operations shall encourage the efficient use of the forest's multiple products and services to ensure economic viability and a wide range of environmental and social benefits.

Note that the "efficient use of the forest's multiple products and services to ensure economic viability..." is emphasized, not something that lies several thousand feet below the forest, that is unrelated to the healthy regeneration of the forest and that clearcuts acres at a time.

PRINCIPLE #6: ENVIRONMENTAL IMPACT - Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest.

The Sustainable Forestry Initiative states: "Sustainably managed forests make a vital contribution to society by providing economic, environmental and social benefits indispensable to the quality of life. A commitment to sustainable forest management means protecting water quality, soil, wildlife and unique resources; promoting human health and safety; providing employee training and education; and communicating the benefits of the practice of sustainable forestry to the general public." The Sustainable Forest Initiative works within the framework of the Montréal Process to which the U.S. government is a signatory.

The Montréal Process criteria are:

1. Conservation of biological diversity.
2. Maintenance of productive capacity of forest ecosystems.
3. Maintenance of forest ecosystem health and vitality.
4. Conservation and maintenance of soil and water resources.
5. Maintenance of forest contribution to global carbon cycles.
6. Maintenance and enhancement of long-term multiple socio-economic benefits to meet the needs of societies.
7. Legal, institutional and policy framework for forest conservation and sustainable management.

It is clear that both protocols emphasize that society may benefit economically from forest products - in a sustainable way.

The Management Plan Negates its Stated Goals

It is truly shocking that, in direct negation of its stated goals, a section of Chapter 5 is devoted to benefits of drilling for oil and gas in State Forests, although negative aspects

are also discussed. In our view, this wholly negates DEC's program, and prohibits true forest protection. High volume hydraulic fracturing as is being proposed in state forests is so incompatible with their purpose that it should simply be banned.

For example, to quote from the Strategic Plan: "Minerals, as with any other property right, can be severed from the fee estate. This is usually done by means of a mineral deed or mineral rights reservation, thus creating a split estate. (Leases do not confer permanent rights to the lessee. A deed or reservation, on the other hand, permanently transfers rights from the grantor to the grantee.) In these situations, mineral rights are considered the dominant estate, meaning they take precedence over other rights associated with the property, *including those associated with controlling the surface*" (emphasis added).

At the same time, the DEC admits that these surface impacts may have highly negative impacts on the forest:

"However, high- volume hydraulic fracturing poses the potential for increased surface impacts beyond those of traditional wells. Potential impacts include but are not limited to air pollution from compressor stations, fragmentation of large forest blocks, soil compaction, impairment of recreational use, threats to wildlife from open air fracturing fluid lagoons, noise pollution from regular truck traffic and high levels of activity during the breeding seasons of at- risk species such as raptors, thrushes and warblers. Potential mitigations include but are not limited to siting wellpads off of state lands with drilling access under state lands, at their periphery, or away from areas with high recreational demand. It is anticipated that there will be some leasing nominations that cannot be accommodated on State Forests should these surface impacts be left without mitigation.

Due to the unique issues related to the protection of New York City and Syracuse drinking water supplies, these watersheds will be excluded from the pending generic environmental review process for natural gas drilling using high volume horizontal drilling in the Marcellus shale formation."

We note that the DEC uses "high-volume hydraulic fracturing" when referring to state forests, but uses the term "high-volume hydrofracturing with horizontal drilling" when referring to the NYC and Syracuse watersheds. We question the distinction. High-volume hydrofracturing usually includes horizontal drilling because of the millions of gallons of water that are needed in the process, whereas the maximum per vertical well is on the order of **800,000 gallons**. However, if horizontal drilling were not allowed in the state forests, a series of vertical wells, together using millions of gallons of water, could achieve the same results. The gas industry has threatened to use this method if horizontal drilling is prohibited.

Is DEC prepared to accept the latter solution that would devastate the forests? DEC must be clear on this issue.

In addition to the negative impacts cited by DEC, there are others, equally important, that are not mentioned. For example, a difficult problem is how to dispose of the flowback water. Leaving it in open pits not only presents a danger to wildlife. The

careless manner in which it is stored, often with ripped plastic lining of the containment pool increases the risk of overflow into neighboring streams and ponds during storm events. Another threat to health are the very high levels of radioactive waste present in the NYS section of the Marcellus shale; these wastes are brought to the surface with the flowback/produced waters. According to a November 2009 article in Scientific American, "wastewater brought thousands of feet to the surface from drilling [f]ound that they contain levels of radium 226, a derivative of uranium, as high as 267 times the limit safe for discharge into the environment and *thousands of times the limit safe for people to drink (emphasis added).*"

Also to be noted is the depletion of aquifers, lakes and streams in order to provide the billions of gallons of water needed for multiple fracking operations, as well as the increasing numbers of documented cases of polluted well water. In addition, home equity in the vicinity of fracking operations plummets, and mortgages are hard to obtain.

Forests, as presently managed for recreation, and for the sustainable sale of forest products, are a large source of revenue for NYS.

However, natural gas extracted from thousands of feet below the surface is definitely not a forest product, nor is it sustainable. The fact that a forest happens to lie above a shale containing natural gas is purely coincidental. For example, there is no forest to speak of above the Barnett Shale in Texas that has already been extensively exploited. And the productivity of wells falls sharply within the first year of production, with an estimate of only ten years of useful life. Natural gas extraction is not only unsustainable - it will destroy the forest.

The Management Plan Betrays the Public Trust

Fracking is in direct contradiction with both protocols that DEC claims to adhere to, and to its own Management Plan.

How does the Management Plan reconcile the original intent of State Forests as areas reserved for multiple opportunities for public recreation, as well as for the economic benefits of forest products with the unprecedented water and air pollution, noise and truck traffic resulting from "fracking". They are clearly incompatible.

DEC would have us believe that fracking provides "the opportunity for improvements of existing infrastructure of the State Forests (such as improving access through upgrading existing roads, culverts and gates)". Why is this important and, if so, why could it not be done without destroying the forest through fracking? DEC mentions "remote risks" to groundwater aquifers and residential water wells. DEC must be aware of the recently published Riverkeeper report (and many others) that carefully documents hundreds of cases, out of thousands, where fracking has resulted in "significant adverse environmental impacts."

DEC has to wait until the SGEIS on drilling for natural gas in NYS has been finalized. The date is June, 2011. However, in answer to a comment that drilling in State Forests should be banned, DEC responded that it will wait until the EPA study of the possible impacts of fracking on drinking water quality has been finalized, sometime in 2012. Curiously, this statement is nowhere corroborated in the body of the text. Only the most meticulous reader would be aware of it. Since it is to be found nowhere except as a response to a comment, should it be given any credence? DEC must provide a straightforward answer.

Finally, we ask DEC to live up to its mandate as Dept. of Environmental Conservation. Protect our forests. Do not allow fracking in our State Forests. They belong to us, the taxpayers, the people. They do not belong to the drilling companies that would destroy them.

Hydraulic fracturing in NY State Forests, as being proposed, is so contrary to DEC's true mandate under the law, that it must be viewed as a breach of public trust, and subject to possible litigation.

Respectfully submitted,

Marian H. Rose, Ph.D.
President emeritus, Treasurer
CWCWC

Cc:

Governor Andrew M. Cuomo
NYS DEC Commissioner Joe Martens
NYS Comptroller Tom DiNapoli
NYS Attorney General Eric T. Schneiderman
Chair, NYS Assembly Committee on Environmental Conservation, Robert K. Sweeney
Chair, NYS Senate Committee on Environmental Conservation, Mark J. Grisanti