

# How Not to Regulate Gas Drilling

What NY State Got Wrong

# THE TEN BIGGEST MISTAKES

# Biggest Mistake #10

- Started from a faulty Base
- Assumed the 1992 GEIS was just fine
- 18 years out of date
  - Never meant for unconventional drilling
  - Technology has changed
  - Federal regulations have changed

# Biggest Mistake #9

- Relied too heavily on gas industry consultants

# Biggest Mistake #8

- Based on incomplete, missing and misleading data
  - Incomplete list and analysis of fracturing fluids
  - Incomplete analysis of flow-back fluids
  - Incomplete analysis of radioactive material
  - Incomplete analysis of treating flow-back fluids
  - Incomplete analysis of air emissions
  - Incomplete analysis of gas infrastructure impacts
  - No analysis of cumulative impacts from multiple sources

# Biggest Mistake #7

- Does not require disclosure of contents of drilling or fracking fluids
  - Some typical contents are toxic and/or carcinogenic
  - Potential contamination of drinking water
  - Homeowners need to know
  - Emergency Responders need to know
  - Hospitals need to know

# Biggest Mistake #6

- Fails to deal with flow-back fluids
  - Allows temporary storage in open ponds
  - No dedicated treatment plants in NY State
    - No announced plans
  - Limited capacity at municipal sewer plants
  - Other states at capacity

# Biggest Mistake #5

- Allows drilling almost anywhere with very few restrictions.
  - Within 150 feet of reservoirs (300 ft for NYC)
  - Next to schools, hospitals, nursing homes, parks
  - Without regard to
    - Tourist areas,
    - Historic districts
    - Scenic vistas
  - On any kind of terrain
    - No regard for what lies down hill

# Biggest Mistake #4

- Eliminated Home Rule for Counties and Towns
  - In most other states local governments control the siting of individual wells and facilities. A state agency typically controls the general well spacing.
  - In NY the DEC does it all.

# Biggest Mistake #3

- Fails to deal with huge impact on Counties and Towns
  - Transportation Routes
  - Road Impacts
  - Air Quality
  - Noise
  - Emergency response systems

# Biggest Mistake #2

- Mandatory Integration Law (2005)
  - Effectively gives drillers right of eminent domain
  - Driller who has 60% of leases needed to drill can force neighboring landowners to participate
  - Many states have no mandatory integration
  - NY most severe of those that do

# Biggest Mistake #1

- DEC charged with both Environmental Protection and Promotion of Gas Drilling
- Other States split responsibilities between separate agencies.
  - Only PA similar to NY
- The Fox is watching the Chickens

# What you need to know

- Drilling already here
  - Under old regs - no horizontal fracturing yet
- Towns and Counties have work to do
  - Road Laws / Road Maintenance Agreements
  - Zoning Laws, Noise Ordinances, Emergency Response, etc.
- Individuals - protect yourself
  - Legal advice for leases or pipeline agreements
  - Understand mandatory integration