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MEMORANDUM IN OPPOSITION

RE A.7400 (Sweeney)/S.5592 (Carlucci) - AN ACT to suspend hydraulic fracturing; and providing for the repeal of such provisions upon the expiration thereof

Submitted on behalf of: **Independent Oil and Gas Association of New York (IOGANY)**

The Independent Oil and Gas Association of New York (IOGANY) strongly opposes this legislation. A.7400/S.5592 is identical to a measure vetoed by Governor Paterson in 2010: (Veto 6837), who then stated:

“Enacting this legislation, in essence, would put people out of work that results in no demonstrated environmental harm and is not even under DEC review, in order to effectuate a moratorium that is principally symbolic. Symbols can have great importance, but particularly in our current terrible economic straits, I cannot agree to put individuals out of work for a symbolic act.”

This bill would amend unconsolidated law to establish a one year moratorium on issuing permits for horizontal drilling when hydraulic fracturing will be used. IOGA of NY believes that this legislation is unwarranted, and ill-conceived. The EPA has already concluded on more than one occasion that hydraulic fracturing – a 60-year-old technology – is safe. What’s more, thousands of wells have already been hydraulically fractured in New York over the past 60 years without a single case of water contamination.

At the outset, it is critical to understand that the bill is technically flawed. As drafted, A 7400 would:

- Bar existing safe drilling that has been going on for decades in New York.
- Cause the loss of jobs in New York (4,500 directly and thousands more indirectly)- existing gas producing companies would go out of business and existing employees will be out of work—more jobs lost in the Southern Tier of New York.
- This legislation was vetoed in 2010 because of the adverse effect this legislation would have on the economy, real property taxes, and its obsolescence.

The bill’s provisions prohibit all drilling permits, in any gas formation, where hydraulic fracturing is used. More than 90% of the **hundreds of new wells** permitted in New York State each year in formations other than Marcellus and Utica are developed using hydraulic fracturing (DEC permits issued: 670 wells in 2008 and 580 in 2009).

Application fees paid to the NYS Department of Environmental Conservation total approximately \$1,000,000 each year (prior to ANY Marcellus Shale exploration); this revenue will be lost during the moratorium to the State of New York. Additionally, more jobs will be lost!

History of Natural Gas Exploration and Hydraulic Fracturing in New York

Natural gas has been part of New York's heritage for more than 200 years. Natural gas, along with crude oil, was found in numerous wells dug or drilled for salt water in colonial times. The first well to produce natural gas in North America was dug in Devonian shale in Western New York. Citizens in Fredonia, noticed gas bubbling up through the bed of Canadaway Creek, and local leaders had the foresight to sink a shale well to collect the gas and use it to light the town in 1821. Thirty eight years later, Edwin Drake drilled his famous oil well at Titusville, PA, the first oil well in the U.S.

Following the success of this first shale gas well, the development and use of shale gas proliferated along the south shore of Lake Erie, eventually spreading into Pennsylvania, and Ohio. By the turn of the century hundreds, if not thousands, of wells had been drilled along the lakeshore and in basins, and were producing shale gas for domestic and small commercial use. However, as exploration advanced, the development of shale gas diminished in favor of productive conventional oil and gas horizons.

In the late 1960's, as natural gas reserves in the United States began to diminish, the U.S. Energy Research and Development Administration (ERDA) initiated a program to stimulate domestic gas production. NYSERDA partnered with ERDA by initiating a 4 well R&D program. The program grew from 4 to 13 wells. All the wells were cased, fracture stimulated, and production tested.

Hydraulic fracturing is a key production method that has aided U.S. production of oil and gas for more than 60 years, on more than 1,000,000 wells in the U.S. to date, and is used in developing more than 35,000 wells each year. This technique has been key to the production of 7 billion barrels of oil and 600 trillion cubic feet (Tcf) of natural gas.

This Legislation Puts 4,500 Jobs in Jeopardy

Unfortunately, A7400 is premised on bad science and misinformation. The sponsor is convinced to advance an agenda that will adversely impact people and places that have endured significant economic hardship and job loss. We urge reconsideration to protect the existing jobs in New York and allow drilling that is already common practice in New York to continue and to allow a more balanced review of the hydraulic fracturing process.

What the proponents of this legislation fail to recognize is that in New York State 580 new permits were issued in 2009. New wells were drilled in Allegany, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Erie, Genesee, Madison, Otsego, Seneca, Steuben, Tioga, Wayne, and Wyoming Counties. **Over ninety percent of those wells were hydraulic fracture stimulated.** The vast majority of the wells would not have been drilled if not for hydraulic fracturing.

In the late 1960's as natural gas reserves in the United States began to diminish, the U.S. Energy Research Development Administration (ERDA, later U.S. DOE) initiated a program to develop other major gas resources. In the 1970's ERDA, recognizing that the Devonian and Mississippian black shales were a major resource of natural gas that required advanced production methods for

recovery. NYSERDA and ERDA partnered on 17 R&D wells. All the wells were cased, fracture stimulated and production tested.

The research conducted by NYSERDA and ERDA led to resurgence of the oil and gas industry in New York State which currently has 4,500 people employed in the State of New York¹. The research established that although New York does not have an abundance of “gusher” wells – New York’s “tight” rock formations which normally do not allow the passage of oil and gas, could be hydraulically or “artificially” fractured. Without this research in the 1970’s the New York oil and gas industry would not support directly and indirectly 126,487 jobs in the State of New York².

Measures like this legislation put into jeopardy not just future production from Marcellus and Utica shale but any new oil and gas wells in the Canadaway Group, Onondaga Reef, Oriskany Sandstone, Bass Islands Trend, Medina Sandstone, Trenton Limestone, and Theresa / Rose Run Sandstone, as well as the employment and small business that depend upon the New York State oil and gas sector.

No Federal Moratorium

In its Fiscal Year 2010 budget report, the U.S. House of Representatives’ Appropriation Conference Committee directed the EPA to commence a study on the relationship between hydraulic fracturing and drinking water, using a “credible approach that relies on the best available science, as well as independent sources of information.” Neither Congress (which recommended the study), nor EPA (which is conducting the study) has advocated or advanced the notion of a moratorium on any form of hydraulic fracturing, because evidence already demonstrates the safety of hydraulic fracturing:

- A study by the Ground Water Protection Council concluded that “there was no threat to underground sources of drinking water from oil and gas operations.”
- A 2004 EPA study concluded hydraulic fracturing does not pose a realistic threat to water sources.
 - o EPA conducted a review of all 11 major coal basins across the country and of 200 peer-reviewed publications. It reviewed 105 comments in the Federal Register. It requested information from 500 local and county agencies in states where CBM production occurred. It interviewed 50 local and state government agencies, industry representatives, and 40 citizens groups that alleged drinking water contamination from hydraulic fracturing.
 - o After completing its 4-year study, EPA concluded "the injection of hydraulic fracturing fluids into CBM (coal bed methane) wells poses little or no threat to underground sources of drinking water *and does not justify additional study at this time* (emphasis added)." EPA had originally planned to study contamination in a two-phase study. Following issuance of the first-phase findings, EPA determined not to even initiate the second phase of study.
- In a Dow Jones Newswire report (February 15, 2010), Steve Heare, director of EPA's Drinking Water Protection Division, stated that “EPA is not aware of any documented

¹ http://www.api.org/aboutoilgas/upload/PWC_State_ContributionsStudy_200107-2.pdf

² http://www.api.org/aboutoilgas/upload/PWC_State_ContributionsStudy_200107-2.pdf

cases in which the hydro-fracking process had contaminating water supplies” despite claims by environmental organizations.

- In a December 2009 Senate hearing, EPA Compliance Administrator Cynthia Giles and EPA Director for Water Matthew Larsen stated again that EPA is not aware of any cases of water contamination resulting from hydraulic fracturing.

New York State Conducting a Comprehensive Review of High Volume Fracturing

New York State regulators have also been evaluating the environmental impacts of the drilling and hydraulic fracturing activities for more than 15 years, through a Generic Environmental Impact Statement (GEIS) that sets statewide parameters for SEQRA review of gas well permitting.

In February 2009, the NYS Department of Environmental Conservation’s Bureau of Oil and Gas Regulation released the final scoping document under SEQRA for a Supplemental Generic Environmental Impact Statement (SGEIS), specifically focused on developing the Marcellus and other shale gas regions in the state using high-volume hydraulic fracturing.

On September 30, 2009, NYSDEC released for comment the draft SGEIS which proposes additional parameters for SEQRA review and focuses on water supply protection and wastewater management as major issues. Until New York finalizes the supplemental GEIS, no permits for gas wells involving horizontal drilling and high-volume hydraulic fracturing are being issued.

New York Needs Marcellus Shale Jobs- they’re headed to Pennsylvania instead!

A recent report by Penn State University found that natural gas production in the Marcellus Shale region, enabled by hydraulic fracturing, has already generated:

- 29,000 good-paying jobs.
- More than \$240 million in state and local taxes for Pennsylvania last year, and \$2.3 billion in total economic development.

In 2010, Marcellus shale development in Pennsylvania is expected to:

- Create 98,000 Pennsylvania jobs, and
- Pump \$14.17 billion into the state’s economy.

Over the next decade, Marcellus shale development in Pennsylvania is forecasted to create:

- As many as 212,000 new jobs.
- More than \$1.8 billion in state and local tax revenues.
- An additional 13.5 billion cubic feet of natural gas a day, and \$18.85 billion in value added resources for the state’s economy.

The Penn State University study also finds:

- For every \$1 invested in the state by Marcellus Shale producers, \$1.90 of total economic output is generated as a result.
- For every \$1 million of output created by natural gas production in the Pennsylvania Marcellus, 6.9 jobs are created.

The Independent Oil and Gas Association of New York respectfully submits that A.7400/S.5592 is substantially flawed, and should see no further consideration. For more information, please feel free to contact James Carr, Darren Suarez or Mara Ginsberg @ 518-436-0751 or jcarr@hinmanstraub.com.

Respectfully submitted,

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