

**Testimony of Edward Skyler  
Deputy Mayor of Operations, City of New York**

**New York State Department of Environmental Conservation (DEC)  
Public Hearing on Marcellus Shale Drilling  
(November 10, 2009)**

Good evening. I am Edward Skyler, the City of New York's Deputy Mayor for Operations. I am joined by Steve Lawitts, Acting Commissioner of City's Department of Environmental Protection (DEP). Thank you for the providing us with an opportunity to testify on natural gas drilling, a subject of vital interest to the City of New York, and for holding this hearing in a location where other city residents can testify.

I note that the New York City Department of Environmental Protection has already testified at an earlier DEC hearing on October 28<sup>th</sup> in Sullivan County about the potential for natural gas drilling to adversely affect our water supply system.

Tonight, I want to emphasize that Mayor Bloomberg is very concerned about the important public policy issues raised by drilling in the watershed. The New York City water supply system provides drinking water for approximately one-half of the State's residents, including 8.4 million residents of New York City, 1 million consumers in Westchester, Putnam, Orange and Ulster counties, and millions of commuters and visitors every day. In practical terms, the City's west-of-Hudson watershed – the part which lies in the Catskills - includes 6 of our largest reservoirs and 1,600 square miles of land, as well as related infrastructure that allows us to aggregate, store and distribute this vital natural resource using the most efficient and environmentally-safe methods.

All told, the network of water bodies is also supported by more than 100 miles of tunnels, including the Delaware Aqueduct which, at 85 miles in length, is the world's

longest contiguous water tunnel. Together, the Catskill and Delaware watersheds provide 90% of our total water supply, which is still pristine enough to be consumed unfiltered.

We recognize that the use of natural gas as an energy source presents significant potential benefits for air quality and in-state production could boost the local economy. But the fact that these watersheds lie directly over the Marcellus Shale formation is a cause for serious concern. DEC proposes to permit horizontal drilling and high-volume hydraulic fracturing to access natural gas in the Marcellus Shale formation; both activities are invasive and create potential public health risks to the City's pristine water supply.

Risks of such magnitude must be assessed by sound science. The City has engaged a joint venture of engineering firms to provide independent, expert advice on the potential public health risks that natural gas exploration poses to our water supply. This report will be complete in December 2009, and we are pleased that DEC Commissioner Grannis has extended the comment period to December 31, 2009, which will allow us to complete and submit our study.

Today, we also requested that the New York State Department of Health (NYSDOH) conduct an assessment of the public health impacts of drilling in our unfiltered watershed. As the primary regulator of drinking water quality in the State, it is incumbent upon NYSDOH to evaluate the risks to public health that natural gas drilling presents.

The U.S. Environmental Protection Agency (EPA) and NYSDOH allow NYCDEP to operate the Catskill-Delaware water systems without filtration only because those watersheds retain much of their rural and agricultural land uses and because NYCDEP, together with upstate landowners, has put in place a vigorous system of land-use controls.

This waiver, also known as a Filtration Avoidance Determination, is possible only because the City is meeting very stringent criteria, which only four other large cities in the country are qualified to receive. In contrast, New York City could not avoid filtration for the Croton system, which supplies 10% of our water annually, and as a consequence is now spending more than \$2 billion to build a filtration plant in the Bronx.

If the EPA's filtration avoidance determination was revoked because of the impacts of natural gas exploration in the Catskill-Delaware watershed, a comparable filtration system would need to be built. And because this system produces more than 900% of the volume produced by the older Croton system, simple cost analysis suggests that a comparable filtration solution could cost more than \$10 billion to build, and \$100 million per year to operate. That translates to a 30% increase in the price of water and sewer service currently paid by New York City residents – a risk which is entirely avoidable.

We are still assessing whether drilling in the New York City watershed can be done safely under any circumstances. At a minimum, however, any regulatory framework for gas exploration, drilling, and development must protect against risks to public health and the environment. And after all risks have been minimized, an appropriate regulatory framework would have to include and account for the remaining risks, including the costs to build and operate the filtration plant that would be required in the event that drilling caused or contributed to the revocation of the City's Filtration Avoidance Determination. Failure to ensure that the regulations fully account for the potential costs of drilling in the City's watershed would impose a massive unfunded mandate on the City and its water rate payers, who are already bearing the cost of several billion-dollar projects that are driven by such mandates. In recognition of this growing problem, Governor Paterson recently stated in Executive Order 17 that "the fiscal impact

of any legislative or regulatory proposal that imposes a mandate should be evaluated to the fullest extent possible to consider the cost to local governments.” The significant potential costs of allowing drilling in the watershed cannot simply be passed onto New York City, and must not be ignored as this process moves forward.

In view of the potential costs of repairing any damage caused by natural gas drilling, the Catskill-Delaware watersheds require State protection, and it may be that the only sufficient protection is to ban this activity in the City’s watershed. In the past, the State has enacted special protections for residents who rely on surface water from the Great Lakes by closing the beds of Lakes Ontario and Erie to gas and oil exploration; such a ban continues today under federal law. This precautionary approach may also be appropriate for the Catskill-Delaware watersheds, upon which eight million City residents, and an additional one million residents of Hudson Valley communities depend on for their water. Undoubtedly, closing watershed lands and areas around infrastructure to drilling would address the many environmental and public health risks that would otherwise require extensive study, protective laws and regulations, and financial assurances.

In closing, any regulatory scheme must have as its primary goal the protection of the water that sustains New Yorkers, including over nine million residents who use water from the New York City watershed.