

Brief Description:	Site plan approval to construct a 436 sq. ft. pole barn (accessory structure). Project is located at 4332 Labrador Lane in the Town of Canandaigua.
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COMMENTS:

- The applicant wishes to replace an existing non-conforming accessory structure. Applicant wishes to tear down and replace a pole barn on the side lot of a single family dwelling.
- Variances will be required for the height of the structure and for the right setback prior to construction.
- Proposed height of structure = 18 ft. (16 ft. allowed by code).
- Proposed right side setback = 6.5 ft. (15 ft. required by code). Per email from Amanda Catalfamo (Town of Canandaigua) dated August 11, 2014 the requested side setback has been revised to 5.8 ft.
- No Federal or State wetlands are present on the property.
- The property is not located within a FEMA floodplain.
- The property is not located in or within 500 ft. of an Ag District.
- The referring agency should consider granting the minimum variance necessary.

Board Motion: Retain referral #88-2014 and #88.1-2014 as a Class 1 and return it to the referring board with comments.

Motion made by: David Wink

Seconded by: Peter Osborne

Vote: Motion carried

89 - 2014	Town of Bristol Town Board	Class: 2
Referral Type:	Text Amendment	
Applicant:	Supervisor Robert Green	
Property Owner:		
Representative:		
Tax Map No(s):		
Brief Description:	Proposed local law - "Bristol Local Law: Large Scale Natural Gas and/or Petroleum Extraction Activities and Material Disposal Sites" and changes to Article XII Special Regulations regarding nonconformities, height, restrictions, etc.	

Background

The Town of Bristol established a Focus Panel to study issues related to high volume hydraulic fracturing for extraction of natural gas in 2012. The Focus Panel presented its findings to the Bristol Town Board in 2013. Since then, the Town has been reviewing the findings and drafting a local law.

Local Law Summary

The draft local law would prohibit all forms of oil and gas extraction. The only exception is operations that only support on site uses AND do not use high volume hydraulic fracturing (80,000gallons or more of fracturing fluid). The law establishes a local registration process for new operations to ensure proper permitting and compliance with NYSDEC requirements. Changes to definitions (additions, revisions, and deletions) are included to align with the provisions of the proposed and existing zoning code.

• **Prohibited Activities, Allowed Activities, and Registration**

The following language is added to **Article Six "Provisions Applicable to All Use Districts"** :

Section XIII.

1. The following land uses, as defined in Article III Section Two of this Ordinance, are prohibited within the Town of Bristol:
 - A. Natural Gas and/or Petroleum Extraction Activities
 - B. Material Disposal Sites
2. The prohibition in Part 1 of this section shall not apply to the following:
 - A. Continuation of existing land uses in compliance with Article Twelve of this Chapter.
 - B. Issuance of a Certificate of Occupancy for any and all construction performed pursuant to building permits issued prior to the effective date of this Local Law;
 - C. Natural Gas and/or Petroleum Extraction Activities that:
 1. Are conducted only to provide natural gas and/or petroleum to an end user on the same lot; and

2. do not involve High-Volume Hydraulic Fracturing; and
 3. do not involve sale and/or distribution of extracted natural gas and/or petroleum to another user off site.
3. Before expansion of an existing or establishment of new Natural Gas and/or Petroleum Extraction Activities, registration with the Town is required in accordance with Section XIV of this Article.

- **Section IV.** Establishes registration requirements for allowed activities.
- The **Definition of Light Industry** is deleted.
- Changes are made to Article XII regarding nonconformities.

Comments

- **Definition 87. Planned Unit Development** refers to industrial uses. Since the code only provides for ‘Light Industrial’ uses, consideration should be given to changing this reference to ‘light industry’.
- **Section XIV B. 5. & 6.** appear to have a numbering typo—should they be C. & D.?
- **Section 2. Authority and Intent....** states, “It is the intent of the Town Board to continue to allow small scale oil and gas operations as an *ancillary* use by landowners in the Town.” Existing town law does not include a definition of ancillary use. It does include a definition for accessory use which is the term generally used in New York for uses that are secondary to a principal use and are ‘customary and incidental’ to the primary use.

Bristol has an established land use history of landowners having natural gas wells ‘as accessory uses’ that provide for home heating, corn drying, etc. that are associated with a principal use. Using the term “accessory use” has well established case law that would preclude any assertion that the gas extraction could be used for sale etc. off site.

It would also follow in the common local zoning practice that allows small scale photovoltaic and passive solar systems and small scale wind turbines to be classified as an allowed accessory use in residential or even non-residential areas.

Consideration should be given to adding to a revision to proposed Article VI that states,
 §XIII 2. C. The Accessory Use of Natural Gas and/or Petroleum Extraction Activities that

➤ CRC Comment Summary

The committee members discussed concerns about potential contamination of ground or surface water quality that could result from the fracturing process or transportation of the chemicals or waste products. The abundant supply of freshwater is a very important and finite resource that requires protection.

Guest Comments Summary

Note: The CPB received letters from two people that are attached.

- Allowing hydraulic fracturing for natural gas is a very significant threat to the Town of Bristol’s and other localities water quality (including the Canandaigua Lake watershed). It therefore poses a potentially significant adverse intermunicipal that warrants the CPB to recommend disapproval.
- There is no strong support in Bristol for allowing hydrofracturing as proposed in this law.
- The proposed law has serious legal flaws that would not stand up to legal challenge and is not consistent with the NY Court of Appeals decision in the Dryden and Middlefield cases.
- The proposed law does not limit the number of wells that can be drilled on a parcel.

Additional Information

There was discussion that the Canandaigua Lake Watershed Management Plan Update recommended that watershed localities not allow hydrofracking.

The Canandaigua Lake Watershed Management Plan Update – July 2014 is currently under review and in *draft form*. **Chapter 4.12 Mining and Natural Gas Extraction** is attached to these CRC minutes.

“C. Encourage watershed municipalities to not allow high volume hydrofracking in the watershed portion of their municipality plus a 4,000 foot buffer to protect from potential groundwater contamination.”

According to Kevin Olvany, Canandaigua Lake Watershed Manager, this recommendation limited to high volume, commercial scale

hydrofracking not the level proposed in the local law.

Findings

1. Ontario County has an abundance of high quality surface and groundwater resources including all or portions of five Finger Lakes and major northern watersheds that ultimately flow into Lake Ontario. The Town of Bristol is located in portions of Honeoye Lake, Canandaigua Lake and Mud Creek northern watersheds. Land use decisions have a significant impact on maintaining or improving the quality of those resources.
2. According to the Ontario County Planning Board Bylaws § 2.4; Natural Features including water resources are to be considered during a referral review.
3. Environmental, public health and economic issues related to high volume fracturing are still being analyzed by the NYS DEC and a statewide moratorium remains in place. Nationwide, there is uncertainty regarding short and long term impacts associated with the extraction and the disposal of waste from the process.
4. The Town of Bristol has determined that 1) land use activities associated with high volume extraction of oil and gas operations is not consistent with the Town's comprehensive plan and could have potential adverse impacts on town infrastructure and water resources.
5. The Town has historically had land owners who have captured the more easily recoverable natural gas resources and wells have been developed. However, new fracturing technology makes collection of previously unrecoverable gas now viable. This technology involves utilizing fluids that may contain not only water but a combination of chemicals the composition of which may not be disclosed, and may be hazardous in nature. This poses the following serious risks regardless of the size of the operation:
 - a. There are currently no treatment facilities in Ontario County or in the State of New York that have the capability to process the waste fluids created by the drilling process.
 - b. In the event of a spill or accident involving undisclosed materials, local emergency personnel may not know what they are getting into and either be unable to respond or put themselves at unreasonable risk if responding without proper equipment. Delayed response time will expand the area impacted by any spill or accident.¹
 - c. Presently, there is no viable way to treat groundwater should it be contaminated by a fluid leak or spill. Determining the extent of groundwater contamination can be complicated due to the area's geology.
6. Surface and ground water cross municipal boundaries creating the potential for significant adverse impacts on other municipalities should a spill or accident occur.
7. The Town has determined that extraction activities of 80,000 gallons of fluid or over are prohibited but allows landowners to conduct extraction activities as an ancillary or accessory use. A few landowners have expressed an interest in such a use. The CPB acknowledges the benefits of a private gas well to that landowner. However, CPB must consider the benefit to private landowner against the potential short and long term adverse intermunicipal impacts that could result from an accident, leak, or spill.

Board Motion: Based on the above Findings and acting with an abundance of caution to minimize adverse intermunicipal impacts that could be associated natural gas extraction for individual private use; the CPB recommends that referral #89-2014 be retained as a Class 2 and returned to the Bristol Town Board with a recommendation of disapproval of the proposed local law as referred.

Motion made by: Mary Neale

Seconded: Leonard Wildman

Vote: Motion carried with one (1) abstention – Sandy Riker

¹ Based on communication (8/19/2014) between Maria Rudzinski with Jeff Harloff, Ontario County Director of Emergency Management, the proposed NYS DEC regulations will require any operator/driller of a fracturing operation to communicate/coordinate in advance with County Emergency Management and local responders.

Current NYSDEC regulations for oil and gas extraction require disclosure of fluids to be used in a drilling operation as per Linda Collart NYS DEC.

7289 Ludlow Drive
Canandaigua, NY 14424

August 8, 2014

To the members of the Ontario County Planning Board:

As residents of the town of Bristol, we have serious concerns about the draft-law on Large Scale Natural Gas and/or Petroleum Extraction Activities and Material Disposal Sites which has been submitted for review at your August meeting. We fear that this law (constituting a partial ban) will NOT meet what should be its two main objectives: to hold up in court and to protect not only Bristol and its residents, but the entire watershed from risks associated with hydrofracking. It is important to note that our neighbors in this watershed (e.g., the Town and City of Canandaigua, the Town and Village of Naples, and the Town of South Bristol) were wise enough to adopt complete bans. We hope you will take into account our concerns as outlined below while considering this draft-law.

A. Legal concerns:

1) The recent decision by the NYS Court of Appeals allowing home rule emphasized that, while towns have the right to use their zoning laws to restrict or ban hydrofracking, they do NOT have the right to regulate the industry. Bristol's draft-law bans high-volume hydrofracking (HVHF) but allows fracking that uses up to 80,000 gallons of fluid; this could well be interpreted as "regulating the industry." Ms. Deborah Goldberg (the attorney who represented Dryden in this Court of Appeals case) has fully validated our concern.¹

2) The risk of lawsuits would be increased once new DEC regulations (currently in draft form) get adopted; these define HVHF as more than 300,000 gallons. This would leave Bristol's definition without a legal rationale.²

3) It is of serious concern that the draft-law lacks a number of important definitions and specifications:
a) no definitions are provided of crucial terms such as *light industry*, *heavy industry*, or *end user*;
b) there is no specification as to maximum number of wells per property; no indication whether gas from an end-user's well can be used for commercial purposes; and there are no criteria on the basis of which variances are to be provided by the Zoning Board for drilling gas wells in residential/agricultural zones.

4) At several Bristol Town Board meetings mention was made of the Right to Farm Law, which we were told may necessitate allowing low-volume fracking. However, many of the towns with a complete ban of all gas extraction (e.g., Dryden, Canandaigua) have Right to Farm Laws. This law was never even referred to in the NYS Court of Appeals decision that upheld home rule. We therefore submit that the Right to Farm Law does not represent a legal requirement to allow low-volume fracking.

¹ Deborah Goldberg, email communication to Dr. Nicholas Cohen dated July 15, 2014:

"I think your concern is well founded. I think your law could be subject to challenge, unless there is a strong factual basis for the distinction. You might categorize development of conventional wells using only 80,000 gallons of water or less as a "light industrial" use and development of unconventional wells as a "heavy industrial" use and allow light industry on agricultural land. It would be hard to develop a record to support the distinction, I think, but it might be done. Without the record, the law almost certainly would be subject to challenge. Of course, you also would have to permit other light industrial uses on agricultural land. If you single out the oil and gas industry for special treatment instead of treating them just like other industry – which is what Dryden and Middlefield did – you could have a lawsuit on your hands."

² The 1992 GEIS defines low-volume hydrofracking as less than 80,000 gallons of fluid; the current draft supplemental-GEIS, which specifically addresses HVHF, defines it as more than 300,000 gallons.

B. Health and environmental concerns:

1) According to the DEC's database, between 1979-2009 there have been at least 270 reported incidents in New York State involving: drilling rig fires, explosions, homes evacuated due to gas drilling hazards, polluted water supply wells, gas drilling wastewater spills and various other oil/gas releases that have never been cleaned up. Many of those problems have exceeded remediation requirements for many years.³

2) Note that all fracking is exempted from complying with the Clean Water, Clean Air, Safe Drinking and Resource Recovery Conservation Act (i.e., Energy Act of 2005). Potential health/environmental problems related to both low- and high volume hydrofracking are associated with:

- leaking/overflowing of containment ponds filled with fracking waste (e.g., production brine);
- accidents involving trucks transporting fracking fluid or waste to or from the well site;
- explosions, well water contamination etc. if drilling of a new well hits an unplugged abandoned well (*note*: there are 22 unplugged abandoned wells in Bristol, according to the DEC database);
- failure of cement and well casings, which is guaranteed over time;⁴
- contamination with toxic chemicals (e.g., carcinogens and endocrine disruptors).⁵

3) These risks are exacerbated by:

- understaffing at the DEC such that it can only inspect a small fraction of existing wells;⁶
- insufficient/outdated regulation of gas well drilling by the current 1992 GEIS;⁷
- the new definition of HVHF in the draft supplemental GEIS, which may necessitate modifying Bristol's definition to "300,000+ gallons"—a nearly 4-fold increase of toxic chemicals!
- the Town of Bristol's lack of resources to deal promptly with a major drilling-associated accident.

4) Some newer drilling technologies use formulations (e.g., LPG/liquid nitrogen and gels) that drastically reduce the volume of water needed for fracking. Therefore, setting an upper limit of 80,000 gallons of any unspecified fluid used to frack a well could result in the equivalent of HVHF and all the environmental and health risks associated with it.

In view of the above, we urge you to disapprove Bristol's draft-law. Only a complete ban will be safe and defensible. The rights of the few who might benefit from having a well drilled should not outweigh the rights of all of us in Bristol to live our lives free from the risks of fracking or expensive litigation.⁸

Sincerely,

Nicholas and Catharina Cohen

³ <http://www.toxicstarfetting.com/sites/default/files/pdfs/22163083-Drilling-Spills.pdf>

⁴ <http://www.pnas.org/content/111/30/10955.full.pdf+html>

⁵ <http://fracfocus.org/chemical-use/what-chemicals-are-used>; and:
http://www.dec.ny.gov/docs/materials_minerals_pdf/dgeisv1ch9.pdf

⁶ <http://green.blogs.nytimes.com/2012/07/18/report-sees-lax-inspections-of-n-y-gas-wells/>

⁷ <http://www.scribd.com/doc/76085928/Worst-Practices-at-the-DEC>

⁸ The DEC database shows no new active production wells drilled in Bristol in the past 38 years. Specifically, of the 27 active gas wells referred to in Bristol's draft-law, 25 are used by Honeoye Storage for storage and/or monitoring. There are only two actively producing gas wells in Bristol and these were drilled vertically, in the 1970s.

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SAMUEL M. HALL
LAURENCE M. KARZ
PETER ROLPH

August 11, 2014

Ontario County Planning Board
20 Ontario Street
Suite 323
Canandaigua, NY 14424

Re: Application by the Town of Bristol for revision to the Town of Bristol Local Codes Article Three 'Definitions; Article Six 'Provisions Applicable to all Districts', Article Twelve 'Special Regulations' and Article Twenty-One 'Validity'.

Dear Ontario Planning Board Members:

I respectfully request for the reasons set forth herein that you 'disapprove' the draft of the above referenced application by the Town of Bristol that would allow hydrofracking in the Town of Bristol.

INTRODUCTION

My name is Laurence Karz. My wife and I own a 50 acre parcel with a year round home on Elm Tree Road in Bristol. We have owned the property since 1986 although my best friend's parents owned it before us and I had many sleep overs at the property during my childhood going back to the 1960s.

I am an attorney who has practiced law with my partner, Sam Hall, in Canandaigua for almost 40 years. Our practice is primarily litigation oriented which often puts us in court arguing the validity and interpretation of New York State laws, rules, and regulations.

WORDS OF WISDOM

A dedicated group of public servants said the following:

'Until such time as the potential for long term, cumulative, and indirect environmental and public health impacts are adequately addressed and appropriate mitigation measures are identified, it is the desire of this Board that no hydrofracking be permitted on county owned property.'

This quote comes from Resolution Number 762-2101 Ontario County Board of Supervisors, December 17, 2010, vote 19 in favor, 0 opposed, 2 board members absent.

BRISTOL'S PROPOSED LAW IS SUBJECT TO SERIOUS LEGAL CHALLENGE THAT WILL PUT AT RISK NOT ONLY GROUND WATER IN THE TOWN OF BRISTOL BUT IN ALL OF ONTARIO COUNTY

a. Town of Dryden and Middlefield cases:

We are all aware of the recent Court of Appeals Decision upholding the complete ban on hydrofracking in the Dryden and Middlefield cases. The Court upheld the power of localities to use their zoning laws to regulate land use. Importantly, the Court drew a distinction between land use laws and laws that 'attempt to govern the details, procedures or operation of the oil and gas industry.' (Pg. 14 of Decision).

Deborah Goldberg, the attorney who represented the Town of Dryden, and the person who would be most knowledgeable about the Court's reasoning, was contacted concerning Bristol's proposed law. she agrees that Bristol's attempt to allow so called 'low volume hydrofracking' is subject to serious challenge as it clearly goes beyond simply regulating land use.

Bill Kenyon, the Town of Bristol Attorney, has also said publically, that the safest way to insure that Bristol's draft law is legally supportable is to follow the path of Dryden and Middlefield and enact a complete ban.

As he, myself, and any attorney who has argued cases in our Courts knows your strongest, clearest, and most persuasive argument in supporting a new law is that the Court of Appeals has already affirmed the exact language that is being challenged.

The Town of Bristol, by trying to 'split the baby' by allowing low volume fracking but not high volume fracking by regulating the amount of fracking fluid used runs a very substantial risk of its law being thrown out by the Courts thereby leaving Bristol open to all fracking. This would put not only Bristol's ground water at risk for contamination but would put all of the watersheds that serve Bristol at risk, i.e., the Upper and Lower Honeoye Creek, Mud-Ganargua Creek, and Canandaigua Lake.

On this basis alone, the draft law should be 'disapproved'.

b. The proposed law would allow fracking everywhere in Bristol not only exposing Bristol land owners to ground water and land contamination but also the neighboring communities.

Bristol's proposed law allows fracking anywhere in Bristol. It is contrary to any rational land use law to allow an industrial activity (here fracking wells with toxic chemicals) to be located

anyplace in the entire town.

Bristol's proposed law exposes every land owner to having their neighbor pump up to 80,000 gallons of fluid containing toxic chemicals into the ground risking contamination of their wells, run off from chemical spills during the fracking process, contamination from failed wells, etc.

Given that Bristol is contiguous to the Towns of Canandaigua, South Bristol, Richmond, West Bloomfield, and East Bloomfield, any land owner in the Town of Bristol living near those towns who frack a well significantly exposes those Town residents living near by to all of the ill effects of fracking even though those towns have banned all fracking.

This 'free for all' fracking legislation will depress real estate values not only in Bristol but in the surrounding towns. Any real estate attorney will have to inform any clients who wanted to buy land in Bristol or the neighboring towns that someone could frack right next door, certainly not a positive factor for any potential buyer.

c. Bristol's proposed law is fatally flawed, internally inconsistent, vague, and ambiguous.

Bristol's proposed law is seriously flawed. Some of the major problems are the following:

1. The draft law states that it is 'intended to protect the public health, safety, and welfare (Section 2A), that it wants to 'protect Bristol's natural resources', 'protect, preserve, and enhance Bristol's 4 watersheds and 'encourage environmentally beneficial land use' (Section 2).

There is no credible dispute that fracking chemicals are toxic and contaminate the aquifers. To allow low volume fracking while stating that high volume fracking 'may pose detrimental health and environmental effects to Bristol's unique treasures including ground water...' and that 'Town residents get their water from wells and are dependent on aquifers for life sustaining water.' (Section 2) is tantamount to saying that putting a lot of poison into the ground is not good but allowing any resident, any time, any place to put a little poison in the ground, that is alright. Not only does this defy logic and common sense, it opens the law to challenge on the 80,000 gallon limit, why not 90,000, 100,000, 300,000, etc.

2. The draft law equates low volume fracking to Light Industrial zone type use, i.e., a low intensity use not likely to have off site impacts yet never defines what a Light Industrial zone is, never designates where such zones exist and, most importantly, then goes on to allow low volume fracking any time, any place, any where. This would allow anyone with an alleged 'light industrial use' (whatever that is) to located any place in Bristol, basically under mining Bristol's entire land use planning laws.

3. The draft law allows low volume fracking "only to provide natural gas/or petroleum to an end user on the same lot." (Page 4 'C1'). As an attorney who spends much of my time dealing with the interpretation of statutory language I simply do not know what the draft law is

referring to, i.e., 'end user on same lot'. The original theory was that the law was to let a home owner frack a well for personal use on their lot, i.e., to heat their home, etc. The draft law seems to go far beyond that. Legally, it is impermissibly vague and will lead to anyone claiming they are an 'end user'.

4. Although the DEC may provide some information to adjoining land owners, the draft legislation does not contain any protection for adjoining land owners, not notice to them of any fracking activity, no mention of insurance for spills, contamination, etc.

IN ADDITION TO THE SIGNIFICANT LEGAL PROBLEMS THE DRAFT LEGISLATION DEFIES COMMON SENSE

a. Any major fracking spill, well failures, highway accident in transportation of fracking fluid or waste by product will be Ontario County's problem.

As in any industrial activity, fracking has significant risks. Those risks will be born by Ontario County since Bristol is not equipped with the resources to handle the very problems it now wants to create.

b. What about 'my rights'.

The draft law not only exposes every Bristol resident to fracking next door, but there is already talk of insurance companies refusing to insure properties that are near fracking sites, banks are indicating that mortgages may be difficult to get, properties will be hard to sell, etc.

c. Bristol's draft law is based on the misunderstanding that fracking doesn't contaminate ground water and is safe.

You don't have to go any further than Pennsylvania to know that fracking contaminates ground water. In Texas there was recently a 3 million dollar verdict against a fracking company for contamination. The oil and gas industry resolves complaints with confidentiality agreements preventing those harmed from coming forward publically thereby misleading the public as to the scope and depth of the problem.

It is also curious to note that for an industry that claims that its process and the toxic chemicals it pumps into the ground are safe, it has used its lobbyists to get fracking exempted from the Clear Water Act. It is also my understanding that no waste water treatment plant in New York State will accept the waste water produced by fracking.

d. There is no proof that there is any demand in Bristol for fracking wells for personal use. Further, the facts are that there are only two currently active gas production wells in Bristol and they were dug in the 1970s.

e. **RIGHT TO FARM LAW:** Some on the Bristol Town Board have stated that without allowing fracking the law will violate the Right to Farm Laws. This is simply untrue, there is no connection between a total ban on fracking and any Right to Farm issues.

f. **The Future:** Should the future bring improvement in technology, there will be ample time to then decide if allowing some type of hydrocarbon recapture is desirable, rational, and in the best interest of our community. Further, shouldn't Bristol, as with other parts of Ontario County, be stressing and supporting alternate forms of energy such as solar, wind, and geothermal.

SAUDI ARABIA

The finger lakes area is the Saudi Arabia of fresh water. You already see articles discussing that the real fight, long after hydrocarbons are replaced by renewables, will be over fresh, potable water.

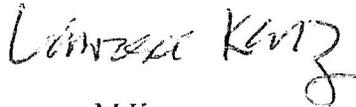
To risk contaminating this life giving and life necessary resource for some unknown, possible, limited benefit, for at best, a very few people, is, to put it mildly, unconscionable.

CONCLUSION

It is respectfully submitted to this committee that based on the above, that Bristol's proposed draft legislation be 'disapproved' in its entirety.

Sincerely,

HALL AND KARZ

A handwritten signature in black ink that reads "Laurence M. Karz". The signature is written in a cursive style with a large, looped "K" and "Z".

Laurence M Karz

4.12 MINING AND NATURAL GAS EXTRACTION

THE ISSUE

The geologic setting of the Canandaigua Lake watershed, with its localized rich sand and gravel deposits and marginal deep shale-locked deposits of natural gas, provides important natural resources and commercial business opportunities for the local community. However, natural resource extraction in the form of sand/gravel mines and natural gas drilling can have significant impacts on surface and groundwater. Active, inactive, and non-permitted sand and gravel mine sites throughout the watershed can pollute nearby streams by increasing sediment loads. The potential for high volume hydraulic fracturing for natural gas could have major implications for water quality due to the millions of gallons of water and hydrofracking fluid used to activate each gas well. Trucking, spills, stormwater management concerns, additional roads, industrialization of rural areas, well casing leaks, water withdrawal from the lake, the lack of a comprehensive state inspection program and the shallow extent of the Marcellus Shale in relation to the bottom of the lake and groundwater—all pose real threats to watershed.

SAND AND GRAVEL MINES

According to the NYS DEC, seven permitted and an additional eight reclaimed sand and gravel mine sites are located within the Canandaigua Lake watershed. Numerous other mine sites exist that are inactive or operate below the one thousand ton removal per year threshold requiring permitting by the DEC. Unrestricted runoff and sedimentation from bare mine banks can have an impact on nearby surface waters, resulting in:

- impaired stream flows
- diminished water clarity
- damaged fish habitats

Once disturbed, mine banks are difficult to revegetate and continue to contribute to water quality problems over long periods of time.

NATURAL GAS EXTRACTION

Canandaigua Lake is the economic lifeblood of our region, providing high quality drinking water for over 65,000 people and supporting a thriving recreational and tourism industry. Environmentally, the intact forested lands within our watershed provide the following ecological services: reduce flooding, protect Canandaigua Lake as a drinking water source, limit the amount of filtration needed and increases biodiversity and habitat quality of the lake and surrounding watershed.

Based on these facts, the Watershed Council has requested that the NYS DEC provide equal protection as the NYC and Syracuse/Skaneateles watersheds along with primary aquifers by prohibiting high volume hydraulic fracturing in the Canandaigua Lake Watershed and supporting a 4,000 foot buffer from the watershed boundary. At this time, not enough information is known about the water quality impacts to surface and groundwater or the health impacts from air and water pollution. Trucking, spills, stormwater management concerns, industrialization of rural areas, well casing leaks, the lack of a comprehensive state inspection program and the shallow extent of the Marcellus Shale in relation to the bottom of the lake and groundwater- all pose real threats to the watershed.

STRATEGIES

F. REDUCE WATER QUALITY RISKS FROM MINING SITES WITHIN THE WATERSHED.

- A. Work with DEC to continue to maintain an inventory of active and inactive mining sites within the Canandaigua Lake watershed and periodically check these sites during storm events to evaluate pollution potential.
- B. Provide educational materials on water quality protection to mine operators and municipalities.
- C. Encourage municipalities to not exclude mining operations from stormwater regulations in local land use zoning.

G. PROTECT THE CANANDAIGUA LAKE WATERSHED FROM IMPACTS RELATED TO HIGH VOLUME HYDRAULIC FRACTURING.

- A. Continue to encourage New York State to provide equal protection to Canandaigua Lake as it is providing to Skaneateles Lake and the New York City Watershed.
- B. Continue to support scientific study that looks at all of the cumulative impacts from high volume hydrofracking. Encourage the US EPA to look at the Pennsylvania area very closely and take on a comprehensive monitoring program of private water wells near hydrofracking locations. High quality, comprehensive scientific examination will be critical to evaluating the potential impacts from high volume hydrofracking.
- C. Encourage watershed municipalities to not allow high volume hydrofracking in the watershed portion of their municipality plus a 4,000 foot buffer to protect from potential groundwater contamination.
- D. Provide technical support and actively work with municipalities as they review possible local land use regulations and road use agreements regarding high volume hydraulic fracturing.
- E. Encourage public and private water purveyors that use the lake or watershed streams to not provide water to hydrofracking operations. In addition, encourage DEC to not allow the lake to be used as a withdrawal location for the hydrofracking industry. Water withdrawals will greatly increase truck traffic and will require millions of gallons of water per well.
- F. Recommend that municipal and private waste water treatment plants in the watershed not accept high volume hydraulic fracturing waste.
- G. Recommend that municipalities, counties and State DOT do not use brine from high volume hydraulic fracturing for deicing agents on municipal or private roads in the watershed.
- H. In the event hydrofracking is allowed within the watershed boundaries, the Watershed Program would partner with DEC and municipalities to monitor hydrofracking sites and waste disposal.

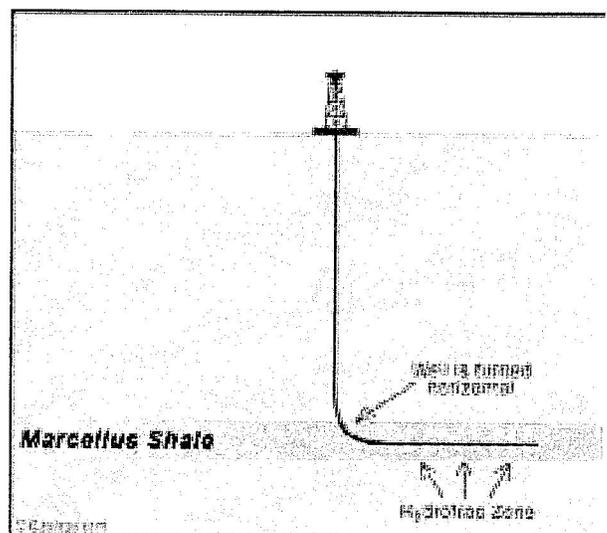


Image courtesy Brad Cole,
Geology.com