



Nirav R. Shah, M.D., M.P.H.
Commissioner, New York State Department of Health
Empire State Plaza
Albany, New York, 12237

February 15, 2013

Dear Commissioner Shah:

It has been some time since we met in Cooperstown on the occasion of your visit to the Basset Medical Center. At that time, you expressed concern about hydraulic fracturing and indicated that that you were following events in other jurisdictions closely. Now it seems that health impact studies being conducted in other states will play a crucial role in your evaluation of the risks for all New Yorkers. The stakes could not be higher. There is the potential for massive human and animal contamination as a result of the extraction processes and the massive rural industrialization that is being proposed. We urge you to use the power of your office to make sure that all of New Yorkers are protected and that decisions about the health of its citizens are not made without a full health impacts assessment.

I am writing also to transmit comments which my organization, Otsego 2000, headquartered in Cooperstown, submitted to the DEC this January on the proposed fracking regulations. (Digital copies of the enclosed document are available at our website at otsego2000.org.) While the time for finalization of the regulations has apparently slipped, these comments remain important because they highlight several key legal problems with the manner in which DEC is now proceeding. For budgetary or political reasons or both, the DEC is now in apparent gross disarray. It is acting under heavy lobbying by the industry, without legally mandated cumulative impacts analyses and without peer reviewed scientific study of industry assumptions. This is legally, politically, and scientifically wrong.

Our comments also address another critical defect in the current proposals for fracking. The DEC impermissibly intends to create a double standard for watershed protection by permitting hydro-fracking in rural areas based on different watershed setbacks and regulations than those applicable in more heavily populated watersheds. The reason for the disparity is purported to be "filtration

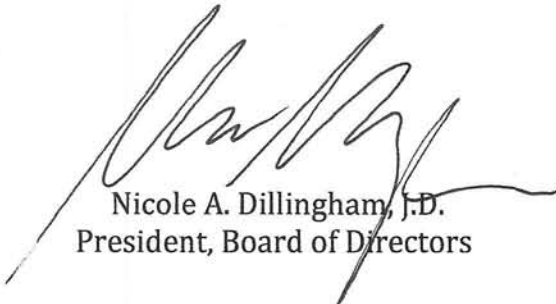
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avoidance determinations", applicable in the NYC and Syracuse watersheds, which require protections from surface disturbances that will occur during drilling operations. However, the DEC has undertaken no factual or scientific analysis to determine whether rural watersheds, such as our own, are in fact better equipped to tolerate surface disturbances or whether indeed they are even more vulnerable to various risks, for the reasons we describe. Our attorneys have found no legal precedent that would allow DEC to manage risk based solely on the number of people that will be exposed, rather than empirical study. This is an unprecedented, repugnant and treacherous path.

We urge you to consider the full implications of the DEC's proposal. You are the Commissioner of Health for all of our people, both rural residents and city dwellers, and you must ensure that risks to drinking water and public health will be evaluated and mitigated equally across the State.

With respect and gratitude for your service,



Nicole A. Dillingham, J.D.
President, Board of Directors

Enclosure