

WESTCHESTER HEARING ON HYDRAULIC FRACTURING WASTE LEGISLATION
TESTIMONY BE ELISABETH N. RADOW; ENRADOW@RADOWLAW.COM; 12/10/12

GOOD MORNING. MY NAME IS ELISABETH RADOW. I AM A LIFE-LONG NEW YORKER. I LIVE, PRACTICE LAW AND PAY TAXES IN WESTCHESTER COUNTY. I CHAIR THE COMMITTEE ON ENERGY, AGRICULTURE AND THE ENVIRONMENT OF THE NEW YORK STATE LEAGUE OF WOMEN VOTERS. I AM ALSO THE PRESIDENT OF THE LEAGUE OF WOMEN VOTERS OF LARCHMONT/MAMARONECK. MY PUBLISHED RESEARCH ON THE IMPACTS OF GAS DRILLING ON PROPERTY RIGHTS AND RISK ALLOCATION HAS BEEN SOURCED AND CITED BY THE NEW YORK TIMES AND OTHER NATIONALLY RECOGNIZED PUBLICATIONS. I SPEAK REGULARLY WITH PEOPLE LIVING IN OTHER STATES WHERE GAS DRILLING IS POLLUTING AND POISONING PUBLIC AND PRIVATE WATERWAYS. THE FRACKING WASTE IS OFTEN RESPONSIBLE. IN MAY, 2012 N.R.D.C. RELEASED A REPORT THAT CONCLUDED NONE OF THE MOST COMMON WAYS OF HANDLING FRACK WASTE ARE SAFE.

IN 1978, TORRENTIAL RAINS TRIGGERED THE SLOW LEACHING OF 20,000 TONS OF LIFE ALTERING TOXIC CHEMICALS BURIED IN CORRODED DRUMS AT LOVE CANAL, TRANSFORMING THIS NIAGARA, NEW YORK REGION INTO WHAT WAS CHARACTERIZED AS THE WORST ECOLOGICAL DISASTER OF ITS KIND. IT RESULTED IN CANCER, RECORD NUMBERS OF MISCARRIAGES AND DEFORMED NEWBORNS. HUNDREDS OF FAMILIES WERE EVACUTATED, LEAVING A GHOST TOWN BEHIND. THE CHEMICALS WHICH CAUSED CANCER, BIRTH DEFECTS AND THREATENED LIVES OF PEOPLE LIVING NEAR LOVE CANAL ARE ALSO USED IN HYDRUALIC FRACTURING AND FLOW BACK IN THE WASTE.

A LOOPHOLE IN FEDERAL AND STATE LAW EXEMPTS THE TOXIC, RADIOACTIVE FRACKING WASTE FROM BEING TREATED AS "HAZARDOUS WASTE." AS I SPEAK TO YOU TODAY, NEW YORK STATE IS ACCEPTING HAZARDOUS FRACKING WASTE FROM PENNSYLVANIA. BECAUSE OF THE LOOPHOLE, FRACKING WASTE CAN GET RELEASED INTO RIVERS AND DRINKING WATER SOURCES WITHOUT REMOVING THE HARMFUL CONTAMINANTS. OR, THE SALTY, TOXIC, RADIOACTIVE WASTE CAN BE SOLD TO MUNICIPALITIES THAT APPLY IT TO MELT ROAD ICE AND CONTROL DUST, AFTER WHICH IT RUNS OFF INTO NEARBY WATERWAYS OR SEEPS INTO GROUNDWATER. TRANSPORTING FRACKING WASTE INTO WESTCHESTER COUNTY COULD INTRODUCE THE KINDS OF RISKS NEW YORK SAW IN LOVE CANAL.

IN RECOGNITION OF THE RISKS TO OUR DRINKING WATER SUPPLY, GOVERNOR CUOMO AND THE D.E.C. HAVE AGREED IN PRINCIPLE TO EXEMPT THE NEW YORK WATERSHED FROM FRACKING. HOW IRONIC IT WOULD BE TO PROHIBIT THE ACTUAL FRACKING IN THE NEW YORK CITY WATERSHED BUT THEN ALLOW THE POISONOUS, RADIOACTIVE WASTE THAT RESULTS FROM THE FRACKING TO ENTER OUR COUNTY FOR DEICING AND DUST CONTROL PURPOSES ONLY TO HAVE IT RUN OFF FROM THE TREATED ROADS INTO THE VERY RESERVOIR SYSTEM THE GOVERNOR, D.E.C. AND ALL OF US WHO DRINK THAT WATER WANT

TO PROTECT. IT IS THEREFORE UP TO LOCAL GOVERNMENT TO ADDRESS THE MATTER. THERE IS ONE CERTAINTY ABOUT THIS TOXIC, RADIOACTIVE DRILLING WASTE; IT'S ENVIRONMENTAL AND HEALTH IMPACTS ARE EXPENSIVE TO HANDLE AND DIFFICULT, IF NOT IMPOSSIBLE, TO MITIGATE.

WHO PAYS? THESE GAS INDUSTRY EXEMPTIONS HAVE THE EFFECT OF SHIFTING LIABILITY ONTO PROPERTY OWNERS AND TAXPAYERS WHOSE WATER BECOMES CONTAMINATED FROM FRACKING WASTE. GAS INDUSTRY S.E.C. FILINGS REVEAL THAT ITS OPERATIONS CAN INVOLVE POLLUTION, AND, THAT THE INDUSTRY IS NOT FULLY INSURED FOR ITS OPERATIONS OR THE IMPACTS. ACCORDING TO A 2010 RANGE RESOURCES REPORT, SUBSTANTIAL INCREASES IN PREMIUMS EXIST IN REGIONS AFFECTED BY HURRICANES AND TROPICAL STORMS. INSURERS HAVE ALSO LIMITED HOW MUCH THEY WILL PAY ON ACTUAL STORM CLAIMS. IN CASES WHERE THE INDUSTRY LACKS ENOUGH INSURANCE TO COVER A LOSS, IT WOULD HAVE TO PAY OUT OF ITS OWN POCKET. WITH COMPANIES SUCH AS NORSE ENERGY FILING FOR BANKRUPTCY PROTECTION AND CHESAPEAKE ENERGY CASH STRAPPED BECAUSE IT IS SO HIGHLY LEVERAGED, IF POLLUTION WERE TO OCCUR TO OUR WATERWAYS AS A RESULT OF FRACK WASTE BROUGHT HERE FOR TREATMENT OR ROAD SPREADING, THE COUNTY WOULD EXPOSE WESTCHESTER RESIDENTS TO THE CLEAN-UP AS A TAXPAYER EXPENSE. AS WE ALL KNOW, WESTCHESTER TAXPAYERS ARE AMONG THE MOST HIGHLY TAXED AMERICANS. CURRENTLY WESTCHESTER MUNICIPALITIES ARE STRUGGLING WITH THE 2% TAX CAP. A SIZABLE PORTION OF OUR MUNICIPAL BUDGETS ARE ALREADY ATTRIBUTABLE TO WASTE. SUPER STORM SANDY CLEAN-UP ADDED TO THE TAX BUDGET BURDEN. WE DON'T NEED MORE.

I COMMEND THE WESTCHESTER COUNTY BOARD OF LEGISLATORS FOR THIS RESPONSIBLE LAW AND URGE ALL COUNTY LEGISLATORS TO PROTECT THE HEALTH, ENVIRONMENT, PROPERTY VALUE OF, AND TAX BURDEN ON, WESTCHESTER RESIDENTS BY PASSING THIS LEGISLATION. THANK YOU.