

**Adirondack Mountain Club
Testimony to the New York State Energy Planning Board
Hearing: 2009 State Energy Plan DRAFT
September 15, 2009**

The Adirondack Mountain Club (ADK) thanks Governor Paterson and the State Energy Planning Board for the opportunity to submit written comments. The Adirondack Mountain Club is dedicated to conservation, education, outdoor recreation and protection of New York's Forest Preserve, parks, wild lands and waters, representing over 30,000 hikers, paddlers, skiers and backpackers.

ADK will present our concerns for the potential environmental and recreational impacts that increased natural gas drilling in the Marcellus Shale, of which the Draft 2009 State Energy Plan encourages, may have on New York. Even without hydro-fracking, gas production is an industrial activity with a number of potential environmental consequences. It requires cutting trees, clearing land, building roads and moving heavy equipment. It creates numerous opportunities for spillage of waste and pollutants and the contamination of surface and groundwater. It is noisy and dirty. Even with no environmental mishaps, each gas-well site will leave a sizable scar on the landscape that will take years to heal.

ADK believes that gas exploration and extraction is inconsistent with intended usage of state parkland. We would like to thank the Governor for excluding natural gas extraction on state-owned parklands in the statewide energy plan¹ as that activity would be inconsistent with the public trust/alienation doctrine.²

Under this doctrine, the state holds state parkland in trust for the people of New York and cannot use it for any commercial or industrial purpose inconsistent with its use as a public park without the express approval of the Legislature. We take this as a commitment by this administration to firmly

¹ *Draft 2009 New York State Energy Plan*, p. 51.

² *Williams v. Gallatin*, 229 N.Y. 248; *Friends of Van Cortlandt Park v. City of New York*, 95 N.Y.2d 623.

resist any claims to drilling rights in the Allegany State Park and to protect other state parks from exploitation.

However, we are concerned that the plan recommends the study of potential private gas exploration on state-owned land not protected under the public trust/alienation doctrine.³ This includes thousands of acres of state forests scattered across central New York, western New York and the Southern Tier. In particular, state forest lands traversed by the Finger Lakes Trail and the North Country National Scenic Trail should be off limits to gas exploration and drilling.

Natural gas or oil extraction would result in new roads, gas transmission lines and extraction infrastructure. We believe that areas where there is a demonstrated record of substantial public recreational use should not be disturbed for oil and natural gas exploration. With the extremely large amount of water that the “hydro-fracking” process involves, hauling water into drilling sites may be necessary if municipal water is not available. Estimates of increased truck traffic are hundreds per day. A large increase in truck traffic has the potential to disrupt the natural character of many state parks and forest lands in Central and Western New York. This natural experience is highly desired by our members and valuable to New York as a tourism opportunity.

ADK also believes that New York’s ecosystem has the potential to be severely disrupted through hydro-fracking due to the large quantities of water it displaces. There is no requirement for drilling companies to notify the State in advance of a water extraction, and New York’s State Pollutant Discharge Elimination System (SPDES) permit does not govern water quantity. We suggest that the Departments of Environmental Conservation (DEC) examine the effect of removing large amounts of water necessary for this drilling technique on water flow and aquatic life during the State Environmental Quality Review (SEQR) required for hydro-fracked wells.

The process for testing the ground for resources does not come without disruption either. “Thumper trucks,” that have disturbed people in residential neighborhoods, are feared to have negative impacts on the wildlife in this part of the State. Even with the large shale formation becoming more and more economical to tap into, building wells and the drilling process are still very expensive, therefore, frequent testing using the “thumper trucks” is inevitable to ensure drillers of the locations where it is worthwhile to drill. However, the public and wildlife disruptions should be regulated.

³ *Draft 2009 New York State Energy Plan*, p. 51.

The original intent of preserving forest areas and state parks is to provide a natural experience to the public for recreation and scenic values. The potential increase in man's industrial existence cannot be ignored. The cumulative impacts of all processes and stages of natural gas drilling must be minimized. ADK believes a SPDES permit should be required for any hydrofracked wells. The liquid used, a chemically enhanced water based solution, is injected at high pressure deep into multiple layers of earth. The State must determine whether the chemicals being injected will not degrade groundwater. It is not unreasonable for DEC to anticipate leakage from the well into the surrounding environment and groundwater when these liquids are being pumped at a pressure strong enough to fracture minerals thousands of feet beneath Earth's surface.

ADK wants appropriate measures to be taken by regulatory agencies to ensure the protection of these forest lands' scenic and recreational character. ADK understands the economic hardships facing New York State but stresses that we must *not* allow our unique historic and natural environment to be sacrificed to industrialization for short term energy resource opportunities. Economic growth and environmental sustainability can be achieved with cooperation between state and local governments, residents, and the environmental community. Thank you for the opportunity to express our concerns and opinions. Please feel free to contact me with any questions.

Respectfully Submitted,

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