

Frac Sand Sentinel

...keeping watch on the industry

Issue #35

DATE: June 30, 2014

NEWS FLASH FROM NEW YORK!



COMMUNITY
ENVIRONMENTAL
DEFENSE
COUNCIL, INC.

Court Rules That New York Towns Can Ban Fracking

<http://ecowatch.com/2014/06/30/new-york-towns-ban-fracking/>

2 pages—WATCH THE VIDEO!

From Earth Justice:

Earthjustice Managing Attorney Deborah Goldberg represented the town of Dryden on appeal, after Anschutz Exploration Corporation, owned by Forbes-ranked Phillip Anschutz (net worth: \$7.5 billion), unsuccessfully sued the town.

After hearing the news, Deborah told reporters:

"This decision by the Court of Appeals has settled the matter once and for all across New York State and has sent a firm message to the oil and gas industry. For too long the oil and gas industry has intimidated and abused people, expecting to get away with it. That behavior is finally coming back to haunt them, as communities across the country stand up and say 'no more.'"

Visit earthjustice.org/dryden-photos, a photo essay with a step-by-step view of how the people of Dryden fought fracking and won.

N.Y. Towns Win Right to Ban Fracking in Oil Industry Setback

<http://www.businessweek.com/news/2014-06-30/n-dot-y-dot-cities-win-right-to-ban-fracking-oil-industry-loss> Bloomberg News

No. 130

In the Matter of Mark S. Wallach,
as Chapter 7 Trustee for Norse
Energy Corp. USA,
Appellant,

v.

Town of Dryden et al.,
Respondents.

No. 131

Cooperstown Holstein Corporation,

Appellant,

v.

Town of Middlefield,

Respondent.

Case No. 130:

Thomas S. West, for appellant.

Deborah Goldberg, for respondents.

Town of Ulysses et al.; Office of the Manhattan Borough
President et al.; New York Farm Bureau; Washington Legal
Foundation; Independent Oil and Gas Association of New York,
Inc.; American Petroleum Institute et al.; Joint Landowners
Coalition of New York, Inc.; Vicki Been et al.; Brewery Ommegang
Ltd. et al.; Dryden Resources Awareness Coalition; Community
Environmental Defense Council, Inc.; Barbara Lifton; American
Planning Association et al., amici curiae.

Case No. 131:

Scott R. Kurkoski, for appellant.

John J. Henry, for respondent.

Town of Ulysses et al.; New York Farm Bureau;
Independent Oil and Gas Association of New York, Inc.; American
Petroleum Institute et al.; Brewery Ommegang, Ltd. et al.; Joint
Landowners Coalition of New York, Inc. et al.; American Planning
Association et al., amici curiae. **PLEASE READ THE ATTACHED DECISION!**

NEWS RELEASE: June 30, 2014

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DRAC (Dryden Resource Awareness Coalition)

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Dryden Group and Allies Celebrate NYS Appeals Court Win

DRYDEN, NY: The people of Dryden are jubilant that New York's highest court has ruled that towns and villages statewide have the right to ban fracking [[url to ruling here](#)].

Democracy works best when people interact with the government at the local level. While the State and Federal governments may not be willing or able to protect us from serious dangers, the most secure power for that protection often lies at the local level. In New York and other states, the right of home rule, including zoning ordinances that grow from that right, has, as proclaimed at state level, long provided the means for that protection.

Many recognize the importance of this case for New York State, the United States, and concerned communities around the globe. This ruling clarifies the ancient right of local residents to make the decisions about the livability of their homes and communities. Local communities everywhere should take heart from Dryden's win: A small group can assert this right, encourage others to join them, take small first steps, get advice and help from people who have walked this road, and persevere toward victory.

Local citizens and local elected officials in New York State need no longer doubt whether they have the power to protect the locality. Indeed, as Dryden has demonstrated, they may be the only ones with the ability to provide that protection. This ruling reinforces our right to locally protect our air, land, water and communities.

Dryden resident and DRAC member Martha Ferger expresses it well: “This all started with house-to-house work in the dead of winter 2011, gathering signatures on a petition to our Town Board for a ban on fracking. We could not be more thrilled with this decision, and we thank EarthJustice especially for legal help with all three levels of court cases that have challenged our ban.”

Around the world, vocal activists and quiet residents alike have awaited this ruling. A member of the Frack Free Lancashire group sent us this message: “Solidarity with the people of the USA and the world who are having to stand up to this industry.”

Another friend calls out across the pond: “Respect to all of the towns and counties that have gone it alone and banned it. Shrewd move. If and when NY State bans fracking it will be a game changer for us. Hollering at folk that Bulgaria and France have banned fracking is one thing, but a state like New York in the home nation of fracking would be a different ball game.”

Yes, our goal is a statewide ban, because fracking and associated industrial activities cannot be done safely. Groups nationwide and globally can build on this victory to ban fracking and take back local control.

In New York, gutsy and smart people were not intimidated by energy industry tactics, notably two indomitable lawyers, Helen and David Slottje. They researched, and shared for free with

Continued, page 2

everyone, the legal and constitutional bases for a fracking ban ordinance. And now the constitutional right to make land-use decisions locally has held all the way up to the highest court of New York.

We thank Deborah Goldberg, managing attorney of EarthJustice, for representing Dryden pro bono in the appeals cases against us. She took on the adversary with matchless preparation and legal skill—and won.

Thank you to Dryden Town Supervisor Mary Ann Sumner and the members of the Dryden Town Board, who stood strong.

Thank you to all our friends and neighbors who have moved forward together with us in this process; thank you to the town boards across New York State who heeded the Slottjes and passed bans and moratoria; and to those who will be empowered by this ruling to act.

But we must stay vigilant – this is a fight forever.

RESOURCES

- Dryden Resource Awareness Coalition (DRAC): <http://draonline.wordpress.com/>
- Shaleshock, the umbrella organization for antifracking groups and information flow across New York State and beyond: www.shaleshock.org
- Physicians Scientists and Engineers for Healthy Energy, an independent science-based group: <http://www.psehealthyenergy.org/> “provides a multi-disciplinary approach to identifying reasonable, healthy, and sustainable energy options for everyone.”
- Helen and David Slottje (Community Environmental Defense Council, CEDC): <http://www.cedclaw.org/>

AN ARTICLE FROM THE NEW YORK TIMES WITH A LOT ABOUT FRAC SAND!

<http://www.nytimes.com/2014/06/30/us/boom-meets-bust-in-texas-atop-sea-of-oil-poverty-digs-in.html?ref=us&module=Ribbon&version=context®ion=Header&action=click&contentCollection=U.S.&pgtype=Multimedia>

WHAT DOES THIS DECISION MEAN FOR FRAC SAND MINING, PROCESSING AND TRANSLOAD IN WI? FOR PIPELINE EXPANSION? TRUCK TRAFFIC? FOR RAIL TRANSPORT? FOR AIR AND WATER POLLUTION ALL OVER THE STATE?



Welcome to the Frac Sand Sentinel, a newsletter highlighting resource links, news media accounts, blog posts, correspondence, observations and opinions gathered regarding local actions on, and impacts of, the developing frac sand mining and processing industries.

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