

Grannis and hydraulic fracturing

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Former state assemblyman Alexander B. "Pete"

Grannis, 68, served as the state's top environmental

official for two and a half years beginning April 1,

2007. A graduate of Rutgers University, he received

a law degree from the University of Virginia Law

School and helped organize New York City's first

Earth Day in 1970. During his tenure as

commissioner, the Department of Environmental

Conservation was criticized for underestimating the risks of hydraulic fracturing--a controversial

gas drilling technique that is temporarily banned in the state--but also praised for creating the

nation's first fracturing chemical disclosure rules. He was fired on October 21 by Gov. David

Paterson after a memo Grannis wrote criticizing the governor's proposed budget cuts for the DEC

was leaked to the press. In the memo he said the agency wouldn't be able to perform its duties if

the cuts went into effect. Grannis' sudden departure sparked outrage from environmental groups

and questions about the future of natural gas drilling regulation in New York. ProPublica reporter

Marie C. Baca interviewed Grannis in ProPublica's Manhattan offices on November 5 and by

phone on November 10. The following is a transcript of those interviews, edited for clarity

and length.

Q: What's next for you?

A: I don't know. I've been out of work for two weeks--as you know, unexpectedly out of work. I'm not ready to retire. I'm congenitally impatient. Even sitting around for just the past couple of weeks has made me nervous.

Q: Would you go back to the DEC if you were asked to return?

A: I'd be very tempted. This budget stuff that got me into this mess . . . I'd like to know that [the governor] is concerned about the environment. But I think Gov. Paterson and the memo and all this other stuff really highlighted that they thought that the environmental and outdoor issues--the upstate economy as it relates to \$3 billion in hunting, fishing, trapping, birding and camping and things--I don't think they really thought that was important.

Q: After you were fired you received a lot of support from environmental advocates. But there were times during your tenure when environmental groups treated you with ambivalence or outright hostility.

A: I've worked on environmental issues for more than 40 years, and while there have been times

that I have had to agree to disagree with people I know and respect, the bottom line is that there are huge differences between what it is to be an activist and what it is to be a regulator. At the end of the day, I am convinced that they will find out that what we did was the best for the environment. But I think that if I had been on the outside, I might have taken a different position on some of these issues.

Q: Which issues in particular?

A: I could see myself on the opposing side [of the hydraulic fracturing debate] if I didn't have the responsibility for making any of the decisions. But we took steps that no one thought we would be able to do because they were so difficult, so I'm not that concerned about some of the negative stuff. In the end, even the critics will tell you that we did a great job.

Q: What was it like to balance two mandates from the state: to protect New York's environment, and to develop those resources for profit?

A: Well, there are obviously pressures on both sides. My job as a regulator was to make sure that legal activity took place in a way that didn't harm the environment. We really committed huge resources to making sure that if this process is to proceed it will be done safely. ... We were very clear that we weren't going to rush ahead and then wonder if we did it right later on.

Q: But in the summer of 2008, the DEC seemed prepared to issue permits for hydraulic fracturing without exploring the possibility of water contamination or having a clear idea of how drillers would treat the wastewater.

A: That is not true. Right from the beginning we understood that this issue required additional review. We were under no obligation to push for something beyond the generic environmental impact statement, but we felt like it was the right thing to do. Some of the accusations you're talking about have been extraordinary, but the truth is that the department has a phenomenal track record of regulating drilling, and we've set the most stringent standards in the country for hydraulic fracturing.

Q: Was there ever a time when you felt the dual mandates from the state created a conflict for you?

A: For most of my environmental stakeholders, the people I know and work with, there was near-universal condemnation of the possibility of drilling. I felt tremendous pressure from friends and colleagues to make sure this was done right. On the other hand, the landowners in some of these poor communities across the southern tier saw [drilling] as a salvation. They were sold a bill of goods that their payments were contingent upon drilling activities beginning sooner. They were putting pressure on us, the administration and their local legislators, to move more quickly. But I never thought of it as a real conflict. I knew very clearly what our responsibilities were. I knew there was this divide between the fact that this was a legal activity and the fact that it has considerable disruptive potential. This drilling is an unattractive, disruptive, commercial activity

with requirements that need to be met. I was never in any doubt that if we found a path forward it would be in a way that didn't affect the environment.

Q: How do you characterize the environmental impact of hydraulic fracturing?

A: Short-term there are very substantial concerns. It's a big industrial activity that involves heavy-duty activity on the drilling pad at the well site, truck traffic and laying of feeder pipes. The experience we've had in New York and other places is that when the activity is completed and the property is restored, things go back to pretty much normal.

Q: Do you have concerns about drilling in the Catskill reservoirs that supply drinking water to 9 million people?

A: The concern is mostly about the risk to the ... certification from the EPA that allows New York City and Syracuse to use the water with minimal treatment. It's right on the margin anyway, so a little disruption during the drilling process might put that at risk. Most of the land in the watershed is privately owned, and in order to make a determination that you can't drill there, you have to be supported by law, fact and science.

Q: What about disposing of the huge amounts of water that hydraulic fracturing requires?

A: It's made clear in our draft impact statement that it is an issue. But even today when people do conventional drilling they have to handle the liquid safely, and it has to be hauled by a licensed hauler to a facility that can handle the waste. You can't haul the waste without a permit from New York, and you can't dispose of it unless the facility can handle it. That has to be disclosed as part of the permit process.

Q: Do New York waste facilities have the capacity to handle that much wastewater?

A: That's a problem for the drillers. Either they build the capacity themselves, find the capacity, upgrade the capacity, or else they have no way of disposing of the waste.

Q: How about an appropriate number of inspectors to keep an eye on drilling activities?

A: There is going to be a direct link between the volume of drilling activity and the number of inspectors we have to monitor that activity. We would only allow the amount of drilling that could be appropriately monitored by the number of inspectors we have in the agency.

Q: Would you welcome additional federal guidelines from the Environmental Protection Agency for gas drilling operations in New York and elsewhere?

A: I think our record has been extraordinary on gas drilling. Everybody wants the state to wait on the EPA study, but that's a drinking water study. Our state health department does what the Safe Drinking Water Act exclusion prevented the EPA from doing in Washington: monitoring drinking water quality and the impact [of drilling] on drinking water. I think they're not going to see things that are different than what we saw.

Q: So, you don't see a problem with gas drilling's exclusion from the Safe Drinking Water Act?

A: There's a national issue with that, but for New York there has not been a problem. Our state health-department drinking water standards are greater than the standards that would have applied had the exclusion not been there. We've always held our water to a higher standard.

Q: Who do you think should be responsible for funding emergency preparedness for gas-related emergencies?

A: Eventually it ought to be strict liability for the drillers, and if the state or the local government has to step in to react quickly, that ought to be fully covered by the drillers. It's not like the Gulf oil spill. Some of the biggest risks we're looking at have to do with the surface, where a tanker truck rolls over, a drill catches on fire, or a there's some kind of spill on the surface.

Q: But there have been explosions in some of the wells. What about the funding for preemptive emergency services for something like that?

A: One of the things under discussion is a fund that would be pre-paid. At the end of the day, the state finds the resources for dealing with emergencies--it's just a question of how quickly they get paid back. With the wells that exploded, some of those go back to casing problems or natural methane problems. Those are issues that are severely dangerous at the site but, as I recall, they didn't pose much of a risk beyond wherever it took place.

Q: Is New York prepared for such emergencies?

A: I think we have pretty good emergency preparedness. We go through drills regularly for catastrophes, mostly natural ones. We've had big spills before and fires, and we certainly have the resources to respond quickly. There's also an emergency preparedness construct triggered by [9/11].

Q: What do you think needs to take place before New York is ready for drilling in the Marcellus Shale?

A: We need to finish the review to make sure that we have all the facts, have anticipated every risk, have set out a way to mitigate every risk that we identify, and that we have sufficient legal and human resources to make sure that we have the authority to do what we need to do. The human resources have to be scaled based on that drilling activity. The plan was to have on-site monitors, to do test borings and testing wells around potential well sites so that we could have baselines for before and after comparisons. Obviously truck traffic is going to have an impact on the communities. That's one of the areas where our--I'm speaking as if I'm still there but I'm not--where there's going to be a big community impact. It wasn't really a concern with conventional drilling because it didn't take place at this scale.

Q: Let's talk about Pennsylvania for a minute. What do you think about what that state is going through right now with regard to drilling?

A: As you can imagine, we are aware of every single time there's a blip on the drilling front in any jurisdiction anywhere in the country. We've been carefully monitoring that, and we knew about all these issues when we started the environmental impact statement, and it's been constantly factored in during the writing process. I think they rushed ahead and did things without the kind of attention that we're giving this very important issue, and they're paying a price for it. We're very mindful of things there and want to make sure that the things happening there don't happen in New York.

Q: Under your tenure, the DEC came up with the first guidelines in the nation for disclosing the contents of fracking fluids, a requirement that the industry has argued would destroy their business model. Do you think there is ever a situation where that information is best disclosed to regulators but not the public?

A: Our position was if they thought it was so proprietary, then they shouldn't get the permit. Our existing regulations and the requirements in the draft [of the environmental review] ask for full disclosure of what is going to be used but not the mix. Health officials need to know because we need to be able to monitor. I guess the question is whether or not there's a level of proprietary information that would protect those details. I think the mix is less important than what's there, so you know where to look if something happened. We need to know what's there so we can do pre-drilling monitoring and get baseline information.

Q: Are chemical manufacturers afraid that someone is going to reverse engineer their products? From what I understand, the various formulas for fracking fluids are very similar.

A: They are [similar]. I think part of it is a business plan where [chemical manufacturers] convince drillers that they have a unique product that will allow the drillers to extract more gas more quickly through this combination of stuff that they put into the fracking fluid. I mean, how different could they be? You put something in there to move the water more quickly, you put in sand, something to keep mold from growing down there, and a few other things--it's not that complicated of a mix. My guess is that they probably are, both in quantity and in mixture, very similar. But companies are squirrely about these issues, and they think that they will somehow get the upper hand by having a magic formula that works better [than their competitors'].

Q: The chemical manufacturers I've spoken with claim there are thousands of different detergents they could use, and the choice of detergent makes a big difference in terms of cost and efficiency. But that seems to be in direct conflict with what I've heard from regulators.

A: I think it's probably much ado about nothing. Drilling companies would have a lot less opposition from the public if they could prove that their fracking chemicals didn't contain benzene or whatever. If they spent less time worrying about disclosing what is in the fluids and more time coming up with safer alternatives to whatever it is they use, everyone would be happier. That being said, these chemicals they shoot at such high pressures are two miles below ground, and if the drilling process is done correctly those materials shouldn't get into drinking water.

Q: There's been concern that the fracking process might interact with natural fissures in the bedrock and contaminate groundwater.

A: We need to be sure that's not going to happen--that's part of this review process. You can't just blow something like that off.

Q: A number of states that have only dealt with conventional forms of drilling, limited drilling or no drilling at all are now facing a deluge of companies that want to perform hydrofracking. What advice would you give regulators in those states?

A: First and foremost, I would hope they understand that it's better to be safe than sorry and to get it right in the beginning, because the consequences later on can be dangerous, damaging and harmful to the economy. Then, make sure you have the people on hand to make sure that the process is functioning properly. It's no good to give a permit--the way they did to Cabot in Pennsylvania--and then have them botch up a well bore or have them not case it properly. You need people on site who are not answerable to the driller, and not answerable to the people they are having dinner with that night, but accountable to the regulator. Last, there needs to be a very clear message that if anything does go wrong it will be 100 percent the responsibility of the drilling operations, whether that requires posting a bond or a standard of strict liability. If we're going to have a clean energy economy that's not dependent on sources outside of our borders, there are things that need to be done, and they need to be done properly. It's the same thing with windmills, solar panels, atomic energy or gas drilling. Nothing's easy because no one wants to turn off their lights and just save energy that way.

Q: How about advice for dealing with the stress of the job?

A: You have to be a workaholic. I read environmental reports to relax. Well, that and go for runs.

Q: What do you see on the horizon for natural gas drilling?

A: Natural gas is going to be the bridge fuel between burning heavy fuels and a clean energy economy. There are going to have to be new standards. We are a very energy-hungry country, and it's a question of making sure that our own resources are available to protect our national security interests and to clean our environment. I've looked at a lot of conventional wells in New York, and you can't even tell that they're there when you have standards in place for the restoration of the site. It's a critical component of the activity.

Q: Are you worried about the trajectory of gas drilling in this nation, given that few states have developed standards as stringent as New York's?

A: Yeah, I am. I'm very concerned. I still watch the coal mining in West Virginia and the gas drilling throughout the country. We're perfectly willing to say, "Don't drill here, but let's get the gas from areas that have nowhere near our level of concern for the environment." My worry is that the constant pressure on [New York] to do the right thing means that we are going to be relying on someone else's less-than-active engagement in some of these areas. It's embedded in their

economy, and they see things differently. This needs to be part of our fuel mix and our economic mix, but it just needs to be done right.

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