Hogan's Fracking Hypocrisy:

How Gov. Larry Hogan Is Collaborating with Canadian Gas Companies to Ship Large Amounts of Fracked Gas Into and Across Maryland, Despite a Fracking Ban in the State

Summary

Nine months ago, Gov. Larry Hogan signed a ban on drilling for gas in Maryland using the controversial method known as hydraulic fracturing, or fracking. The ban was supported by a strong majority of Maryland voters. At the time, the Governor said: "Protecting our clean water supply and our natural resources is critically important to Marylanders, and we simply cannot allow the door to be opened for fracking in our state." But since signing that ban, Hogan has worked consistently to undermine the spirit -- if not the letter -- of the law.

For months, his administration has been actively negotiating with controversial Canadian oil and gas companies to ship large amounts of fracked gas into and across Maryland. He has been kicking the doors down, in other words, for more fracked-gas infrastructure and gas combustion all across Maryland. In December his Administration explicitly called this gas, drilled using dangerous fracking in neighboring states, a "valuable resource" with "environmental benefits" and announced his ambitious plans to "kick-start a natural gas expansion…throughout Maryland."

The Governor has launched this gas expansion effort while saying he supports the Paris Climate Agreements, even as scientists confirm that fracked gas is essentially as harmful to the climate as coal. As for clean-energy substitutes to gas, the Governor vetoed a 2016 General Assembly law expanding wind and solar power and other renewable energy sources to make up 25% of the state's grid. The GA was forced to override his veto in 2017.

Hogan and TransCanada and the "Potomac Pipeline" for fracked gas

To the dismay of environmentalists, health officials, and landowners, Hogan has struck a de facto deal with the company TransCanada (of Keystone XL tar sands infamy) to build a controversial gas pipeline from Pennsylvania, across Maryland, and into West Virginia. Formally called the Eastern Panhandle Expansion Project, it is more commonly referred to as the Potomac Pipeline.

As part of the pipeline construction, TransCanada would drill a pathway under the historic C&O Canal and the Potomac River. Shockingly, Hogan has agreed to exempt the risky drilling and excavation process under the Potomac River from any state oversight whatsoever. The Administration is assuming—without evidence—that there will be no harm to water quality from drilling underneath the Potomac River, despite recent spills in Pennsylvania and Ohio using the same drilling method.

Separately, Hogan has failed to use the state's authority under the Clean Water Act to thoroughly review the impacts of the pipeline. Despite repeated pleas from groups ranging from the Potomac Riverkeeper Network to the Chesapeake Physicians for Social Responsibility, the Hogan administration refuses to follow a standard set by Virginia and other states when it comes to reviewing impacts to water quality from fracked-gas pipelines.

Hogan will not commit, in other words, to conducting a state-based "401 certification" process that would look at key indirect impacts to water quality, such as erosion and sediment from tree clearing and threats to drinking water from drilling through fragile karst geology. Hogan clearly wants this pipeline built as part of his "open for business" pledge to gas companies. Unless Hogan changes direction, TransCanada could receive its final permits and begin construction this spring.

Hogan and the AltaGas Merger with Washington Gas

The Governor and his staff have also spent the last several months coordinating closely with the Calgary-based company AltaGas, Ltd. As part of AltaGas's proposed acquisition of local gas supplier Washington Gas, Hogan has proposed a virtually unprecedented settlement wherein the state of Maryland would spend $33 million in settlement money to assist OTHER gas companies in the construction of MORE fracked-gas pipelines all across Maryland. The settlement – which must be approved by the Maryland Public Service Commission later this year -- also requires that AltaGas spend an additional $70 million (that can be fully charged to ratepayers!) to promote pipeline construction and other fracked-gas infrastructure in the state.

In a press release in December, the Maryland Energy Administration announced that the settlement is explicitly intended to "kick-start a natural gas expansion…throughout Maryland." The same press release called this gas supply – again, fracked from neighboring states -- a "valuable resource" with "environmental benefits."

Nine months ago, the Governor said fracking drilling is so dangerous to water and the environment that it should be banned forever in Maryland. But when the gas is dangerously drilled in other states and then imported to Maryland and transported in pipelines across the state, it has "environmental benefits." And through the AltaGas settlement, Hogan wants ratepayers to SUBSIDIZE this gas expansion, paying for the pipeline expansion to the tune of $70 million while the state tosses in another $33 million in settlement funds.

Locking Maryland into long-term fracked gas use while – absurdly -- exposing the state to lawsuits over clean energy

Governor Hogan is doing all he can – despite the state ban on fracking – to commit Maryland to the expanded use and transport of fracked gas. Beyond the case of TransCanada's controversial pipeline, Hogan's full embrace of the AltaGas merger could actually create a long-term legal barrier to Maryland's transition to a zero-carbon economy in the face of climate change. According to recent expert testimony before the Maryland Public Service Commission, submitted on behalf of the Maryland Office of People's Counsel, the AltaGas settlement could give gas companies the right to sue the state under NAFTA rules if wind and solar power become a significant market threat to gas in the state in the future. Given that the Paris Climate Accords call for precisely that – a plummet in the use of carbon-based fuels – Hogan could be setting the state up for expensive legal battles and new clean-energy barriers at precisely the moment Maryland should be reducing greenhouse gas emissions, not locking future generations into gas use.

Conclusion


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Hogan's commitment to gas infrastructure is a major threat to the state's energy policy, a potential harm to consumers, and it creates serious legal uncertainty under NAFTA. Hogan's Maryland Department of the Environment should immediately stop coordinating with TransCanada and shift to a more responsible regulatory posture over the Potomac Pipeline. This must include examining the harm of tunneling under the Potomac River and conducting a full 401 certification process for water quality threats, with full public input.

The Public Service Commission, meanwhile, should reject Hogan's proposed settlement with AltaGas. If this merger is to be permitted, settlement money should NOT be dedicated to "kick-starting" an expansion of gas use. The opposite should happen. The money should be invested in weatherization and other efficiency measures that actually reduce gas use and thus reduce harm to consumers, the environment, and the global climate. Finally, the Governor should stop opposing General Assembly efforts to expand wind and solar energy generation and use in Maryland, thus finally ending the hypocritical nature of his energy and climate policies.

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