



## TIME for an EID Fact-Check

*TIME* cover story on Marcellus Shale gets a whole lot right – but at 4,100 words, misses the mark on some key facts along the way

Exclude from consideration AARP's monthly magazine, AAA Tourbooks, and publications such as the [Costco Connection](#) and the *Game Informer*, and [TIME Magazine's](#) national circulation – currently in excess of 3.3 million -- ranks it right up near the top 10 magazines in the United States. But as anyone who has spent any amount of time in a doctor's office can attest, TIME has a shelf-life to which most of its other competitors cannot lay claim: Like the Internet, what's written in TIME has a tendency to be read and re-read for years – and even for decades, if you happen to go to the same dentist we do.

Recognizing TIME's national (and even international) significance, and the key role it plays in shaping, re-shaping and ultimately hardening public opinion, EID was hoping against hope that its cover-story on the Marcellus Shale – on newsstands now! – would blaze a factual trail; a piece that would throw into even sharper relief the brand of journalism [recently on display](#) in the pages of *The New York Times*. Like many, we watched with great anticipation as TIME editor Richard Stengel unveiled the cover of the magazine last week on Morning Joe. And then, [there it was](#): Vol. 177 No. 14; "This Rock" – the Mighty Marcellus – "Could Help Power the World." Could it be, we thought? Could it be that we had finally found an accurate depiction of perhaps the most transformative phenomenon our industry, and our country, has seen since Col. Drake?

The answer, on balance, is yes. The product of months of exhaustive research and detailed, on-the-ground reporting, [reporter Bryan Walsh's portrayal](#) of the promise and potential of Marcellus development stands out as a fair and balanced account of both the tremendous opportunity at the heart of the shale, and the specific steps the industry needs to take to strengthen public confidence that its development can and is being done safely, and in a world-class manner.

Of course, at more than 4,100-words in length, [the story](#) includes a number of points that may require additional clarification. Here below, we address the few most significant ones that jumped out to us:

<b>A TIME for Reporting ...</b>	<b>... and a TIME for the Full Context</b>
"In the U.S., the gas industry is <b>exempt</b> from	<b>EPA administrator Lisa Jackson:</b> "I want to make two points on hydraulic fracturing: One is that it <b>is not an unregulated activity.</b> " (Jackson, in testimony

many federal regulations, leaving most oversight to state governments that have sometimes been hard-pressed to keep up with the rapid growth of drilling.” (TIME magazine, Bryan Walsh, [March 31, 2011](#), 8<sup>th</sup> paragraph)

before the U.S. Senate Committee on Environment and Public Works, [Feb. 4, 2011](#))

- Click [here](#) for an EID fact sheet detailing the specific federal regulations involved in each step of the development process. And click [here](#) for an in-depth look at the specific provisions in each of our nation’s landmark environmental laws under which oil and natural gas development is regulated.

“The investigative news site ProPublica has found over 1,000 reports of water contamination near drilling sites.” (TIME, 8<sup>th</sup> paragraph)

“[Scott] Kell [of the Ground Water Protection Council] noted that reports of problems **have been exaggerated**. ‘In recent months, the states have become aware of press reports and websites alleging that six states have documented over 1,000 incidents of groundwater contamination from the practice of hydraulic fracturing. Such reports **are not accurate**,’ he said.” (Oil & Gas Journal, [June 9, 2009](#))

- **More:** “Officials from Ohio, Pennsylvania, New Mexico, Alabama, and Texas wrote letters to GWPC Executive Director Mike Paque disproving the reports, Kell continued.” **NOTE:** Copies of those letters can be found [here](#).

“New York State — spurred by fears about the possible impact of the industry on New York City’s watershed — has put hydraulic fracturing on hold for further study, while some members of Congress are looking to tighten regulation of drilling.” (TIME, 8<sup>th</sup> paragraph)

**FACT:** Hydraulic fracturing technology has been deployed safely in New York since “at least the 1950s,” [according to](#) the state Dept. of Environmental Conservation (DEC).

**FACT:** Notwithstanding what’s been (frequently) reported, fracturing technology is neither banned in New York State nor under temporary moratorium. Need proof? [Click here](#) to view a Marcellus permit issued by DEC on Oct. 25, 2010. As you’ll see, the permit approves the use of hydraulic fracturing in the Otsego County, New York.

**CONTEXT:** In 2008, NY DEC announced that it would delay new permits for development projects requiring more than 80,000 gallons of water as part of the fracturing process – at least until the agency’s final Marcellus regulations were in place.

Those regulations, [according to](#) DEC commissioner Joe Martens, will be published this summer. Permits for the fracturing of natural gas wells in New York continue to be issued by DEC – some in formations even deeper than the Marcellus (TBR, [we’re looking](#) at you).

“‘We were not ready for this,’ says John Quigley, former head of Pennsylvania’s department of conservation and natural resources [DCNR]. ‘We weren’t ready for the technology or the scale or the pace.’” (TIME, 8<sup>th</sup> paragraph)

**Why quote Quigley?** DCNR is not the primary (or even secondary) regulator of oil and natural gas development in Pennsylvania. According to former DEP secretary John Hanger: “Some confusion exists about the jurisdictions and roles of DCNR and DEP. **The DCNR does not regulate the oil and gas industry in Pennsylvania.** DEP does.” (John Hanger blog, [Feb. 27, 2011](#))

**About that “scale” and “pace”:** According to the federal Energy Information Administration (EIA), the state of Pennsylvania currently is home to [more than 57,000](#) active natural gas wells. Of those, scarcely 2,500 are Marcellus wells. Indeed, [according to DEP](#), **nine times** the number of conventional wells have been drilled in Pennsylvania over the past five years than Marcellus ones (19,158 vs. 2,498). Last year, only 1,446 Marcellus wells were drilled – a number that encompasses fewer than two percent of all natural gas wells in Pennsylvania.

“It’s not always clear what those chemicals

**PA DEP debunks:** “Drilling companies **must disclose the names of all chemicals** to be stored and used at a drilling site in the Pollution Prevention and Contingency Plan that must be submitted to DEP as part of the permit application

are, because the industry isn't required to release the precise makeup of its fracking formulas — and drilling-service companies like Halliburton have been reluctant to reveal the information.” (TIME, 17<sup>th</sup> paragraph)

process. These plans contain copies of material safety data sheets for all chemicals .... This information is on file with DEP and **is available** to landowners, local governments and emergency responders.” (DEP Marcellus fact sheet, accessed [April 6, 2011](#))

And then there's the national disclosure registry, organized by the Ground Water Protection Council and [slated for release](#) on April 11. User training document for that system can be accessed [here](#).

**As for Halliburton?** Click [here](#) to see its fluid disclosure page – or just check out the headlines that ran in more than 100 newspapers last fall:

#### **Halliburton discloses chemicals pumped into the ground**

Marc Levy  
[Associated Press](#)  
November 15, 2010

Petroleum services giant Halliburton Co. said Monday it has begun **publicly disclosing the identity of chemicals in solutions it makes** to be pumped into the ground by Pennsylvania's booming natural gas industry.

A **new Halliburton website** provides information on the chemicals the company says are in its three most commonly used solutions in the state, where drilling crews are rushing to exploit the Marcellus Shale, the biggest known deposit of natural gas in the nation.

“It's not for nothing that a provision in the 2005 energy bill that prevents the Environmental Protection Agency from regulating hydraulic fracturing has been nicknamed the Halliburton loophole.” (TIME, 17<sup>th</sup> paragraph)

**Fmr. EPA administrator Carol Browner tells a different story:** “EPA does not regulate – and does not believe it is legally required to regulate – the hydraulic fracturing of methane gas production wells under its UIC [Underground Injection Control] program [under the Safe Drinking Water Act].” (Browner letter to David Ludder, Esq., [May 5, 1995](#))

How could it be a “loophole” if even EPA itself admits it never regulated the process in the first place?

More information on the real history associated with the Safe Drinking Water Act and hydraulic fracturing can be found [here](#).

“The Marcellus Shale is separated from aquifers by thousands of feet of rock, much of it impermeable, and **the gas industry argues** that there has never been a proven case of water contamination through hydraulic fracturing.” (TIME, 18<sup>th</sup> paragraph)

**No need to take industry's word for it** – just take a look at what state and federal regulators themselves have said about the safety of the fracturing process:

**Steve Heare, EPA:** “[Heare] also said despite claims by environmental organizations, he **hadn't seen any documented cases** that the hydro-fracking process was contaminating water supplies.” (as quoted by Dow Jones Newswire, [Feb. 16, 2010](#))

**John Hanger, PA DEP:** “It's our experience in Pennsylvania that **we have not had one case** in which the fluids used to break off the gas from 5,000 to 8,000 feet underground have returned to contaminate ground water.” (as quoted by Reuters, [Oct. 4, 2010](#))

**Scott Perry, PA DEP:** “Just a note about fracking: First of all, it's standard operating procedure in Pennsylvania. And it's important to point out that **we've never seen an impact** to fresh groundwater directly from fracking.” ([May 2010](#))

**NY DEC:** “No documented instances of groundwater contamination are recorded in the NYSDEC files from previous horizontal drilling or hydraulic fracturing projects in

New York." (DEC's SGEIS document, [page 34](#))

Same goes for **Alabama, Alaska, Colorado, Indiana, Kentucky, Louisiana, Michigan, Oklahoma, Tennessee, Texas, South Dakota and Wyoming** (complete round-up of regulators' statements on hydraulic fracturing begins on page 706 of [this document](#))

"[D]rillers have had to ship much of their wastewater to municipal treatment plants —and as a recent New York Times investigation showed, those plants are often incapable of screening all drilling-waste contaminants." ([TIME](#), 22<sup>nd</sup> paragraph)

**Pa. Regulators Debunk NYT:** "We deal in facts based on sound science. Here are the facts: all samples were at or below background levels of radioactivity; and all samples showed levels below the federal drinking water standard for Radium 226 and 228." (PA DEP acting Secretary Michael Krancer, as quoted in press release, [March 7, 2011](#))

**Advances in wastewater recycling mean far less discharge of treated water into surface areas:** "[L]ess than three years after recycling operations began, the industry and regulators claim that up to 90 percent of the wastewater recovered from shale drilling is recycled." (Philadelphia Inquirer, [Mar. 24, 2011](#))

"There are only a few thousand wells now, but there will be far more,' says Anthony Ingraffea, a structural engineer at Cornell University. 'What will life be like when there are 100,000 wells here?'" ([TIME](#), 22<sup>nd</sup> paragraph)

No need to imagine, professor: More than 350,000 oil and natural gas wells **have already been developed** in Pennsylvania, with more than 120,000 active wells today.

**PA DEP:** "Pennsylvania has a long history of oil and gas development,' said [DEP's Scott] Perry, a history which began in 1859 with Edwin Drake's oil well in Venango County. Since then, Perry said, approximately 350,000 wells have been drilled in Pennsylvania, including 121,000 which are currently active." (Abington [Pa.] Journal, [Oct. 29, 2010](#))

**The difference?** Multiple Marcellus wells can and are being developed on a single pad, concentrating those activities in permitted areas and greatly reducing disturbance to land. That said, not even the most active development scenarios envisage the need to develop 100,000 wells. Where'd he even get that number?

**Incidentally:** In February, Prof. Ingraffea [told the Los Angeles Times](#) there was "no doubt" that methane in the Markham well in Fort Lupton, Colo. — source of the indelible "flaming faucet" scene in Gasland — was "because of fracking." In reality, regulators in Colorado have taken a very different position on the matter than the professor from New York.

According to the Colorado Oil and Gas Conservation Commission: "[T]he water well completion report for Mr. Markham's well shows that it penetrated **at least four different coal beds**. The occurrence of methane in the coals of the Laramie Formation has been well documented in numerous publications ... [O]il and gas activity **did not contaminate** the Markham and McClure wells." (COGCC "Gasland Debunked" document, accessed [April 6, 2011](#))

"Representative Maurice Hinchey of New York and Senator Robert Casey Jr. of Pennsylvania have submitted **commonsense** pieces of legislation that would require industry to disclose the identities of chemicals used in fracking jobs." ([TIME](#), 25<sup>th</sup> paragraph)

**FACT:** Legislation submitted by Rep. Hinchey and Sen. Casey, coined the FRAC Act, has absolutely nothing to do with fluid disclosure — which is already the law of the land in the states these lawmakers represent. It has everything to do, however, with assigning EPA direct regulatory authority over fracturing technology for the first time in history — using the Safe Drinking Water Act, which doesn't have a word about "disclosure" anywhere in it, to do the job.

More on SDWA can be found [here](#).

## READ MORE

- **EID fact check:** [On Wastewater and The New York Times](#)
- **Fmr. DEP Secretary:** [NYT wastewater article “deliberately false”](#)
- **DEP press release:** [Tests of PA rivers finds water to be safe](#)
- **Pittsburgh Post-Gazette:** [Gas Drillers Recycling More Water, Using Fewer Chemicals](#)
- **Fact-Check:** [Debunking GasLand \(Fact Sheet\)](#)