

December 5, 2011

Attn: dSGEIS Comments
NYS DEC
65 Broadway
Albany, NY 12233-6510

Dear Sirs:

Although the revised draft SGEIS has made some attempts to appease the concerns expressed by the citizens of NYS, it fails to provide the necessary regulations to insure their safety.

Water

The protection of drinking water sources and supplies is extremely important for the maintenance of public health, and the protection of this water use type is paramount.” (2.4.3) This is a laudable goal, but what has been done to achieve this? What further regulations are needed?

- 1) It prohibits the use of open pits for frack and flowback fluid and recommends the use closed tank and secondary containment systems, but allows open pits for drilling wastes with the same toxic chemicals. All open pits should be prohibited.
- 2) It allows the use of highly toxic chemicals known to be carcinogenic, although this practice is unnecessary. These chemicals combine with radioactive substances (radon) in the flowback fluid. Each time a well is fracked it requires 50,000 gallons of these substances. By law each pad can contain 16 wells -- up to 4 wells can be added each year (section 1.7.11.2) Because of the nature of the shale, each well may need to be refracked up to 10 times. That means that the amount of toxic chemicals used at a single site can be 5,000,000 gallons! The amount of toxic chemicals is not insignificant as the revised draft SGEIS suggests and the DEC should prohibit the use of these chemicals.
- 3) It states that the amount of water used for fracking annually would be roughly equivalent to NYS current level of water consumption. However, it fails to mention that current water use is recycled both privately and publically, and becomes part of NY's natural water cycle. Fracking fluid will not be. Due to its highly toxic nature it will be shipped out of state. It also fails to mention that these calculations are based solely on new well permits, and do not include wells being refracked or multiple wells drilled on a single pad. Billions of gallons of fresh water will be used which cannot help but diminish our supply.
- 4) Appendix 13 of the dSGEIS shows that samples from 13 vertical wells tested in NY had high levels of radium 226. This is mixed with carcinogenic chemicals from the fracking fluid. Even though the DEC warns that “activities that have the potential to concentrate NORM need to come under government scrutiny to ensure adequate protection” it not only fails to classify this fluid as hazardous, labeling it “commercial waste” it also allows the oil industry to “track” its own transportation and disposal of this highly hazardous material! An independent agency should oversee the process if the DEC or another “governmental agency” is unable, and these costs borne by the gas and oil companies.

- 5) It claims that no known well water contamination has occurred in NYS in spite of clearly documented cases to the contrary (see attached list). On October 29, 2009 Congress asked the EPA to study the effects of hydrofracking on drinking water because of the innumerable cases of contamination that have occurred. The DEC fails to incorporate these findings into the revised draft SGEIS. Additionally, if the damages from hydrofracking were minimal, why did Obama sign an aid agreement in 2009 for 26 billion dollars to alleviate the effects of the damage, and why was NY already included in the list of recipients?
- 6) In section 3.2.3.3, it requires the oil and gas companies to list all drinking water sources within a half mile of a proposed pad, but no arrangements are made to have the water independently tested before, after and during the drilling process, nor does it provide a list of which chemicals to test it for, nor does it provide a process for just compensation without litigation in case of contamination, and sufficient bonds to assure such compensation be available (currently only \$5000 bond is required per well)
- 7) Dimock Pa residents fought and proved their water was contaminated by hydrofracking. The courts ruled that the company had to provide them with clean potable water. This is now being reversed by an agreement with the oil companies and the governor of PA, forcing the residents to use highly toxic water. The DEC fails to address consequences of water contamination and the ability of the governor to reverse judicial decisions re just compensation.
- 8) "There are potentially tens to hundreds of thousands of private water supply wells in the State." Section 2.4.5. The DEC only prohibits well pads within 500 feet. Similarly, it only requires this distance from a spring if it is a source of drinking water. Even less from a stream (150 feet) and no distance is required from a pond or spring if it is not listed as a drinking water source. Additionally, if your well is located at the opposite side of your house then a pad could be placed within 100 feet of your house by eminent domain if your neighbor has signed a lease and owns more than 24 acres. If these distances are safe, then why are well pads prohibited within 4000 feet of the NYC and Syracuse watersheds (section 3.2.4)? If equal protection is provided under the law, then why are private and rural water supplies not given equal protection, and why are only 2 of the 17 watersheds in NYS given special protection? If private or small community water sources become contaminated because of these unsafe distance requirements, why are there no immediate repercussions and compensations without litigation? Why is there little or no protection for the average citizen who doesn't benefit from the hydrofracking process (an estimated 94% of all NYS residents)
- 9) The revised draft SGEIS states that the "new" intermediate casing should prevent gas mitigation, but fails to mention the numerous cases where it has already failed to do so, because it isn't actually new but has already been used in other states.

- 10) It states that floods are unpredictable, but flooding is not. In many areas of upstate NY including the Delaware and Susquehanna River Basins (2.4.9.1), torrential rains and heavy snow melts cause flooding at least annually, and at times more frequently. Any open pits containing toxic chemicals from any source, including drilling wastes, will inevitably spill into adjacent land and ground water.

Air Quality:

- 1) No mention is made of the increased risk of lung cancer, lymphoma, and other diseases due to higher levels of radium-226 and radon being released into the air when waste fluid is brought to the surface. Radon exposure is now the second leading cause of lung cancer in the US. The more that is brought to the surface in waste water, the more that is released into the air we breathe. Marcellus Shale contains particularly high levels of radon. This was discovered when extremely high levels were found in homes in Onondaga County. There are no regulations proposed by the DEC to adequately control and treat radium-226 and radon.
- 2) In section 6.6 the revised draft SGEIS discusses greenhouse emissions comparing carbon dioxide emissions to methane inaccurately using statistics from a biased "Chesapeake Energy Corporation's July 2009 Fact Sheet" and ignoring data from Cornell scientists. Additionally, it bases comparisons on the 100 year projections rather than the 20 because those figures seem less threatening. For example, although it states that methane is 25 times more prevalent than carbon dioxide in 100 years, it's 72 times greater in 20 years, and both figures are outdated by 15 years. Based on current data, those numbers change to 33 and 105 respectively! The revised drafted SGEIS allows the industry the choice whether or not to flare vented methane, which would significantly decrease methane levels by converting them to carbon dioxide. Other measures the DEC should require include using plunger lifts at the wellhead, flash tank separators, and better fittings in pipelines.

Regulation:

- 1) DEC's current staffing is totally inadequate to regulate the industry. There are currently only 20 inspectors available to oversee and regulate the industry. Although the DEC states that the number of permits will be limited to what it can handle (Section 9.2) it is unrealistic to expect so few to inspect the detailed processes of the operation. Instead, the revised dSGEIS recommends that oil companies keep records. This will not insure our safety. Instead, the number of wells should be limited by law to what each inspector can realistically inspect during every step of the process – construction, maintenance, and disposal and treatment of wastes. If incapable of doing so, the DEC should allow local communities to hire independent agencies to provide these services at a cost to the gas and oil companies.

Cumulative Effect and Other Factors Not Considered

The revised draft SGEIS inadequately addresses the cumulative effect the various related activities hydrofracking will have on local residents and industries.

- 1) There is no attempt to regulate the number or placement of wells other than the restriction of 16 per well head, and no more than 4 additional wells per pad annually. Each permit is issued separately without consideration as to other permits already issued. In section 9.2, the DEC refuses to regulate the pace of drilling by any other criteria than what they consider their capabilities are.
- 2) It does not consider what effect the random issuing of permits will have on individual communities. It refuses to establish sensible guidelines with a general overview that includes the level of industry a community is currently capable of absorbing by assessing its current facilities, industries and financial resources.
- 3) It has not adequately addressed its effect on the infrastructure of individual communities including damage to roads and bridges, heavy traffic, noise levels, or the need for more emergency and social services personnel and facilities. It has not provided a just method for individual communities to pay for these costs by recouping them from the gas and oil companies, but insists that they provide them without taxing or regulating the companies in any way. This places an undue burden on the residents of these communities.
- 4) It has not addressed concerns regarding the devaluation of property, the inability to obtain mortgages near leased properties, the illegality of gas leases on property that is currently mortgaged, possible foreclosures, and the constitutionality of forced integration. Banks are aware of this and refuse to give mortgages for land within 300 feet of leased properties. Property values of 90% of privately owned homes are predicted to drop dramatically. Additionally, most of the leases were obtained illegally without the consent of the banks holding the mortgage. Banks are currently debating what action they should take. Also, many leases were obtained through coercion and without full disclosure of the intended procedure.
- 5) It has not addressed the negative economic effect on current industries that rely on natural beauty and pure water such as tourism, hunting and fishing, outdoor recreation, agriculture, breweries and vineyards, and cottage industries.
- 6) It has not addressed how this will affect the health and quality of life of NY residents and their families -- now and in the generations that follow.
- 7) Nor has it openly disclosed that the gas obtained from the Marcellus shale is not intended to be used by the residents of NYS but is already slated to be shipped overseas to countries such as China which has prohibited hydrofracking. Two exit terminals have already been approved and more have been proposed. The "clean" energy that the corporations advertise is not intended to help our energy crisis, only to profit the multinational corporations they represent. Our way of life & our land will be destroyed, our water polluted, billions will be spent to cover the damages yet these companies will not pay a penny for the harm they have caused, nor will they care. And, unfortunately, the billions spent will probably not help the families whose homes have been destroyed but only fatten the coffers of financial institutions that will foreclose upon them anyway.

- 8) It is a travesty of justice that such wanton abuse of power is allowed. It is an obviously corrupt system when Gov Cuomo has already received over \$100,000 from the oil and gas companies to promote their interests and that he directly places pressure on the DEC to comply.
- 9) Because of obvious inadequacies the DEC is incapable of overseeing the hydrofracking process, and because of obvious political and financial incentives Gov Cuomo is incapable of being unbiased. It is clear that both the governor and the DEC have failed in their duty to protect the residents of NY.

Sincerely

Carolyn Tavares
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Ithaca, NY 14850

Cc: Hon. Andrew Cuomo, Governor
Hon. A.G. Schneiderman, Attorney General
Hon. Barbara Lifton
Hon. James Seward
Hon. Michael Nozzolio
Hon. Thomas O'Mara

These incidents have been documented by Walter Hang

Ferrugia family near Jamestown, NY 2007 <http://www.youtube.com/watch?v=0Ka0QJaKZ4s>
Mr. Dave Eddy and his family http://www.toxicstargeting.com/MarcellusShale/videos/andover_independence_ny

LITTLE WELL - EAST SULLIVANVILLE ROAD HORSEHEADS, NY, 6/23/2011: EQUIPMENT FAILURE – BRINE – 200 gallons. "APPROX 200 GALLONS OF BRINE WATER TO GRAVEL AT WELL SITE. THE SPILL WAS THE RESULT OF A LEAK IN A PORTABLE STORAGE TANK." Meets Cleanup Standards: NO.

STOSCHEK WELL - 49 BECKHORN HOLLOW ROAD VAN ETTEN, NY, 3/8/2010: EQUIPMENT FAILURE – BRINE – 756 gallons. "VALVE ON THE BRINE TANK FROZE AND BROKE. ALLOWING ABOUT 18 BARRELS OF BRINE TO LEAK OUT." Meets Cleanup Standards: NO.

POYSA WELL #E1 - 61 BRIGGS HILL ROAD VAN ETTEN, NY, 4/8/2011: EQUIPMENT FAILURE – BRINE – 693 gallons. "Valve on brine tank at closed-in well froze and cracked allowing a release of 16.5 barrels of fairly fresh brine." Meets Cleanup Standards: NO.

GRUNERT NO. 1 WELL – SOUTH MAIN STREET EXTENSION [?], NY NO ZIP PROVIDED, 6/1/2011: EQUIPMENT FAILURE – CRUDE OIL – 200 gallons. "LEAKING ABOVEGROUND PLASTIC TANK THAT'S INVOLVED WITH GAS WELL." Meets Cleanup Standards: NO.

TUSCARORA BRINE APPLICATION – TOWN OF TUSCARORA DIRT ROADS TUSCARORA, NY, 6/21/2010: DELIBERATE – BRINE. "Caller states Town is using brine from gas wells to control dust on dirt roads and are applying it way too heavy causing runoff to ditches and streams. Also concerned about his well and what might be in the brine." Meets Cleanup Standards: NO.

A total of more than 400 historic natural gas and oil concerns are documented by DEC and local health authorities. These concerns refute DEC's assertion that gas extraction problems do not exist:

<http://www.toxicstargeting.com/sites/default/files/pdfs/jamestown/CCDOH-...> and
http://www.toxicstargeting.com/MarcellusShale/drilling_spills_profiles