

RESOLUTION TO COMMENT ON THE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION'S DRAFT SUPPLEMENTAL GENERIC ENVIRONMENTAL
IMPACT STATEMENT ON WELL PERMIT ISSUANCE FOR **HORIZONTAL
DRILLING AND HIGH-VOLUME HYDRAULIC FRACTURING** TO DEVELOP
THE **MARCELLUS SHALE** AND OTHER LOW-PERMEABILITY GAS
RESERVOIRS.

Whereas the Town of Ulysses is above the natural gas deposit in the Marcellus Shale; and

Whereas all residents could be impacted from gas drilling whether it be from drinking water contamination, increased truck traffic, potential damage to roads, air pollution, destruction of scenic views, unwanted noise, light pollution, a disregard of current zoning, or a combination of all these factors; and

Whereas the Town of Ulysses supports the intention of the supplemental Generic Environmental Impact Statement (sGEIS) to limit the environmental impact of shale-gas development, however there are areas where it is critical that additional measures are taken to protect human health and preserve the environment.

Therefore, be it resolved that to ensure the health, welfare, and safety of Ulysses residents, to protect its natural resources, and preserve its character, the Town of Ulysses requests the Department of Environmental Conservation withdraw its draft Supplemental Generic Environmental Impact Statement (sGEIS) until the following concerns are resolved:

Water

- The sGEIS should comprehensively address the cumulative impacts on stream flows from surface water withdrawal from creeks and lakes acknowledging pre-existing and future water needs. [p.7-22].
- The sGEIS states it will **encourage** operators to position rig fuel tanks 500 feet from any primary or principal aquifer, public or private water well, domestic-supply spring, reservoir, reservoir stem, controlled lake, watercourse, perennial or intermittent stream, storm drain, wetland, lake or pond, but does not **require** this setback. It must be required [p 7-27].
- The draft sGEIS states that the DEC **may** require the applicant to identify in application materials the anticipated maximum number, type, and volume of liquid fracturing additive containers to be simultaneously present onsite. [p 7-32]. This must be **required** rather than leaving it optional.
- Although hydrofracturing used in the extraction of natural gas is exempt from the federal Safe Drinking Water Act, the DEC must **require** adherence to this law in its sGEIS regulations.

- The draft sGEIS states on page 7-38 that routine testing of drinking water should no longer be necessary a year after the last hydrofracturing event. Given that little is known about the hydrofracturing process, annual testing should continue for at least 5 years. [section 7.1.4.1]
- The sGEIS states that drinking water wells within 1000 feet of a gas well are required to be tested for contamination. The sGEIS must be revised to require surface water drinking sources within 1000 feet to be included as well.
- The DEC needs to revise the sGEIS to be more specific about how water quality data will be evaluated and the criteria it will use to make determinations.
- County Health Departments are required in the sGEIS to investigate complaints about water contamination, but costs associated with these investigations are not funded by the State to cover the increased staffing for this work. The DEC must work in conjunction with the County Health Departments in order to adequately protect water resources [page 7-42 section 7.1.4.1].
- Centralized flowback water surface impoundments must not be allowed. All flowback liquid should be stored in closed steel containers. [section 7.1.7 pg. 7-51]. This would prevent the need for the air pollution setbacks as described in section 7.5.3 pg 7-89, would negate the concern over wildlife drinking flowback water, and further ensure no leakage into groundwater or overflow caused by above average rainfall or corrupted dams.
- Publically Owned Treatment Works (POTWs) cannot adequately treat the quantity of brine and chemicals predicted to be generated as flowback. The total dissolved solids are too high for POTWs to treat in facilities not designed for this type of disposal. The draft sGEIS does not require flowback to be tested for materials that cannot be safely treated in POTWs such as benzene, toluene, naturally occurring radioactive materials (NORMS), and the high concentrations of salt prior to receiving the liquid. With the chemicals now allowed in the dsGEIS, flowback water must be treated at facilities specifically designed and built to treat contaminants generated from this hydrofracturing process not in POTWs [section 7.1.8.1 pg 7-56]. These water treatment facilities must know the full chemical content of the flowback water prior to treatment. If hydrofracturing additives could be restricted to biodegradable materials, this could be reconsidered [section 7.1.8].
- Section 7.1.11 is titled *Protecting the Quality of New York City's Drinking Water Supply*. This protection cannot be limited to the water supply of New York City. Cayuga Lake is a major supply of drinking water for the Tompkins County region including the Town of Ulysses. The draft sGEIS suggests drillers avoid drilling in the vicinity of New York City's drinking water, but this must be expanded to ALL watersheds, aquifers, and private drinking water wells in New York State.

- Setbacks from any stream, river, lake or other body of water must be increased from the proposed 150 feet to 1000 feet [section 7.1.12.2 page 7-69], to be consistent with the requirements for drinking water wells.
- Actions located within 100 feet of a DEC-regulated wetland require permits from the DEC [Page 7-6 section 7.1.1.1]. Other wetland resources should be considered as well such as those identified by the National Wetland Inventory. All of these wetlands serve important roles to water quality, habitat, and other functions. Site-specific analyses should include mapping of all existing wetlands on a site and setbacks expanded to 1000 feet.
- The draft sGEIS requires that additive products for the hydrofracturing process be disclosed, but the actual ingredients and their proportions within those products are not. The DEC should require full disclosure of all ingredients in products [8.2.1.2]. This information must be made public for the benefit of first responders, physicians, and for scientific review.
- Section 5.4 discusses specific chemicals that **may** be used in the fracturing fluids and lists the desirable properties, including minimal environmental effects, but does not identify which additives meet these criteria. Section 5.4.3.1 lists serious health hazards associated with the chemicals along with a statement that “toxicity data are very limited for many chemical additives to fracturing fluids”. The DEC should identify which additives would minimize environmental and human health impacts. If drillers wish to use alternative chemicals, they must be required to provide an additional environmental review for approval.
- In section 9.3.1 the DEC discusses preliminary work on green chemical alternatives. They should return to this investigation and identify green chemicals.
- Analysis of flowback liquid in Pennsylvania and West Virginia frequently show high concentrations of 4-Nitroquinoline-1-oxide, a highly toxic chemical. The dsGEIS does not address this finding which is a concern. The DEC must provide better guidelines for chemical additives to prevent water contamination from high risk chemicals. The DEC should also assess the additive effects of the many chemicals being used together.
- Due to their extreme toxicity, 4-Nitroquinoline-1-oxide, benzene, toluene, ethylbenzene, and xylenes must be banned from use in fracturing fluids.
- Cracks in well casings are one of the main avenues for contamination from hydrofracturing liquid into drinking water wells. DEC inspectors must be on site when well casings are being poured [4.1.4.2 pg 4-48].

Planning and Zoning

- Local zoning ordinances should be followed and Towns should be designated as *involved agencies* for determining environmental impacts from gas drilling. Gas drilling is an industrial use of land and should not be allowed in or within 1000 feet of R1-rural residential, R2-moderate residential, H1 and 2- hamlets, or PR-Park/recreation in the Town of Ulysses.
- Drilling activities must adhere to the local noise and light ordinances described in the Town of Ulysses zoning law.
- Drilling activities must take into consideration the intent of the Comprehensive Plan for the Town of Ulysses especially regarding the designated areas for conservation, environmental protection, lakeshore, unique natural areas, parks, steep slopes, streams, gorges, prime agricultural lands, scenic views, and recreational areas as spelled out in figure 6:*Natural Features* (page 101) and figure 10 *Community Resources* (page 121) of the 2009 Comprehensive Plan. The Comprehensive Plan strongly encourages activities that will increase tourism, small scale agriculture, and outdoor recreation. Natural gas drilling should be prohibited in areas that will compromise these activities and negate the intent of the Comprehensive Plan.
- Drilling activities must not occur within 1000 feet of a critical environmental area as designated by towns.
- Many adverse impacts may be prevented by mandating that drilling companies plan and site their drilling operations to avoid natural features such as steep slopes and maintaining sufficient separation from environmentally sensitive features, such as streams and wetlands [7-23].

Other

- The dSGEIS describes that physical barriers to public access at least 500 feet from the well pad **could prevent** negative exposure to pollutants. The SGEIS **should specifically require** a physical barrier. Working with the Public Service Commission, the NYS DEC needs to determine the proper setback distance to limit exposure, not simply assign 500 feet as a setback. (p. 7-89 to 90).
- Drilling companies should be required to notify Towns when EACH permit is granted not simply the first permit. The DEC should require gas companies to enter in to a road use agreement which would include route selection for maximum efficiency and safety, coordination with emergency management and highway departments, road upgrades for water transport, and road use agreements to pay for road repairs in the event of damage due to heavy truck traffic which by the DEC's own estimations would range from 890 to 1350 truck loads per well [section 6.10 pg 6-137 and section 7.11 pg 7-109/110].

- The sGEIS does not evaluate the impact of increased truck traffic and states that this is more appropriately considered in the context of policy making, primarily at the local level, but local governments are understaffed for projects of this magnitude without additional funding [section 7.11 pg 7-109, section 8.1.1.5 pg 8-4]. Road use agreements should be required prior to any drilling action.
- Due to the chemicals and potential radioactivity contained in the hydrofracturing flowback liquid as stated above, this liquid should not be allowed to be spread on roads where it can be transported to Cayuga Lake through culverts and ditches [section 7.6.1.2 pg 7-50].
- The sGEIS should include quantification of possible cumulative impacts of gas well drilling not only on water resources, but also on community infrastructure and social services, and at least semi-quantitative analyses of a range of potential mitigation strategies. This will require coordination among a number of state and local agencies, as well as additional funding for them.
- The Cargill salt mine runs through tunnels under Cayuga Lake, the Town of Ulysses and the Town of Lansing. How horizontal drilling and hydrofracturing will interact with this existing mining must be addressed in the dsGEIS, especially in areas near and under Cayuga Lake.
- The State of New York's official policy, enacted into law, is "to conserve, improve and protect its natural resources and environment . . .," and it is the Department's responsibility to carry out this policy. Natural gas drilling does not *conserve, improve and protect New York State's natural resources and environment*.
- The DEC currently has only 17 inspectors for over 13,000 existing wells; if gas production by hydraulic fracturing begins, there could potentially be tens of thousands of more wells in New York State. The draft SGEIS does not address how the number of inspectors will be increased or where funds will come from to pay for more inspectors; the current plan expressed in the draft sGEIS is woefully inadequate to manage natural resources to assure their protection and balanced utilization, prevent and abate water, land and air pollution, and regulate storage, handling and transport of solids, liquids and gases to prevent pollution.
- Rules within the sGEIS need to be more clear for the benefit of everyone involved, using words such as "require", "must", and "shall" rather than the more vague terms such as "should" "might" or "may".

Be it further resolved that this resolution be sent to Governor David Paterson, Senators Charles Schumer and Kirsten Gillibrand, Representative Michael Arcuri, State Senator George Winner, State Assemblywoman Barbara Lifton, State Assembly speaker Sheldon

12/24/2009

Silver, State Senate President Malcolm Smith, State Attorney General Andrew Cuomo,
and County Legislator James Dennis.