



CORTLAND COUNTY

60 Central Avenue
Cortland NY 13045-2746

John Daniels
Chairman, Cortland County Legislature

Jeremy Boylan
Clerk of the Legislature

December 28, 2009

Jack K. Dahl, Director
Attn: dSGEIS Comments
Bureau of Oil and Gas Regulations
NYSDEC Division of Mineral Resources
625 Broadway, Third Floor
Albany, NY 12233-6500

Dear Mr. Dahl,

The Agriculture, Planning, and Environment Committee of the Cortland County Legislature would like to take this opportunity to submit comments on the draft SGEIS on the Oil, Gas, and Solution Mining Regulatory Program. In addition to the comments below, we fully endorse those comments that have been submitted by the Cortland County Health Department of Environmental Health, the Cortland County Planning Department, and the Cortland County Soil and Water Conservation District.

We request that rather than allowing the use of a generic environmental impact statement for gas wells in Cortland County, that site specific environmental impact statements be required, given the hydrogeology in this County, the Cortland-Homer-Preble sole source aquifer, our DEC designated Primary and Principal aquifers, and the fact that all of our population relies on groundwater for drinking water. Local notification and involvement is a must.

Our comments on the SGEIS:

- The SGEIS must incorporate a comprehensive assessment of the cumulative impact on the environment and on human health of the multitude of gas wells that will be developed rather than the current SGEIS view of single well impact. This assessment must also consider the environmental and health impact of the vast system of pipelines, condensers and compressors that will be needed.
- The SGEIS must be written as a regulatory document that requires procedures and measures, with penalties, rather than as a guidance document that suggests via words such 'may' and 'should' that are open to interpretation and choice as to whether or not they are followed. All words or phrases open to interpretation (i.e. 'substantial' and 'suspend' or 'cease' drilling) must be defined and all areas that lack clarity must be clarified (i.e. varying setbacks or even no mention of setbacks in some sections). A violations section must be developed including recourse, penalties, and who



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pays for remediation. It must be stipulated that all costs associated with clean-up and remediation be borne by the gas drilling companies.

- The SGEIS must require site specific chemical use disclosure to the public, to ensure knowledge of what must be tested for and in case of an accident at the well site, to ensure appropriate emergency response and potential exposures can be accurately determined. The use of carcinogenic, suspected carcinogenic, endocrine disruptor, or mutagenic chemicals in such fluids must be prohibited. A tracer compound should be added to the hydraulic fracturing fluids to identify the source of contamination if a well is polluted.
- All groundwater withdrawals should be evaluated for local and temporary, as well as sustained impacts on groundwater and aquifer supplies.
- The area of required well testings must be broadened from the current 1000/2000 foot parameter as they are inadequate; Cortland County has a documented case where fluids from gas drilling contaminated groundwater used for drinking water 3000 feet from the gas well site. All private and public water wells in DEC identified production units should be tested to provide baseline data. The time period for required testing should also be greatly lengthened beyond a one year period. The SGEIS should continue to require that water testing be undertaken by local health departments but the cost of such testing and monitoring must be borne by the gas companies, via an escrow account and / or bonding, not borne by taxpayers. All permits should state what third party is sampling and conducting the water testing. The SGEIS should require water quality testing of all water wells within the production unit if re-fracturing events are to occur. Local setbacks for wellhead protection and aquifer protection laws must be recognized and compliance required.
- The SGEIS states that there are several more stringent requirements in primary and principal aquifers such as "remedial action prior to drilling out of and below the surface casing if there is any evidence or indication of flow behind surface casing". These measures should be applied statewide based on the large number of private wells that rely on groundwater resources for drinking water supply.
- A comprehensive and functional plan must be developed for the recycling / disposal of all hydraulic fracturing fluids, including any associated radioactively contaminated production fluid/water, that will not engender either near term or distant future risks to land, water or air resources, people, or wildlife. Surface impoundments for fluids should not be allowed. On-site treatment should be required to eliminate the risk of transporting the fluid. Given the radionuclide present in brines, waste solids must be tested for radioactivity and disposed of in accordance with state and federal regulations.



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- A mechanism must be laid out to ensure that all expenses related to implementation of the SGEIS by all levels of government, from towns and counties, to the State, are funded by the gas companies and not by the taxpayers. County and town governments are not required to enact road use/protection laws, therefore technically they are not part of SGEIS implementation. However, the promulgation and enactment of road use/protection laws has placed an excessive and unreasonable burden on the resources of local governments laws and should be funded by the State or industry.
- The DEC must develop and make public a strategy to ensure that adequate numbers of DEC staff will be available to manage a large number of permits, to monitor and enforce the SGEIS, and to ensure the public that it will be protected.
- All topsoil should be required to be removed, stockpiled, and restored according to NYS Ag & Markets guidelines, including areas for well pads, access roads, gathering lines, compressor stations, and all other gas drilling activities affecting topsoil. Erosion control must be practiced and compliance with the State Construction General Permit must be required for all activities affecting one acre or more of land.
- Access roads and pipelines must not be allowed to carve up agricultural lands such that pieces of farm land become too small for use by agricultural implements leading to their abandonment for agricultural use. Neither should access roads be allowed to disturb streams, wetlands, and other environmentally sensitive areas. NYS Ag & Markets and local Soil & Water Conservation Districts should be involved in decisions regarding siting for roads, pipelines, and gathering lines, with any costs borne by the gas companies involved. If pipelines are constructed adjacent to roads, municipalities must be reimbursed for any damage to roads, shoulders, and ditches. Municipalities need to be notified of such impending work.
- Any hearings on non-conforming space units should be held in the county in which the spacing variances are requested. Landowners affected by such non-conforming space units should be granted 45 days to respond. Individual notification, in writing, of adjacent landowners must be required.
- The SGEIS must require and enforce all operators to station diesel and chemical storage tanks more than 500 feet from water resources, not just encourage such. Secondary containment must be required.
- Road spreading of gas production brine must be prohibited.
- The SGEIS should require a road agreement, a trucking plan, a fire and safety site plan, and water treatment plan to be filed and approved by the DEC with a copy sent to the appropriate local municipalities when an application is made and 60 days before a drilling permit will be issued.



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Additionally, a medical emergency plan must be filed with full information posted as to industry contacts in case of emergency. A mechanism and funding for training and equipping of volunteer and paid fire departments and other emergency responders must be addressed to ensure the ability of emergency personnel to adequately respond to potential petroleum driven fires, spills, and accidents resulting from gas drilling operations.

- The SGEIS must require operators to consult with and obtain review and approval by local governments regarding any existing local plan prior to siting operations.
- DEC inspectors should be on site at all times during drilling and hydraulic fracturing, as are NYS DOT inspectors during bridge construction.
- Permit fees must be adequate to cover all costs (see Fort Worth, Texas as an example where this has been accomplished).

We appreciate this opportunity to submit our comments on the draft GEIS as gas drilling in the Marcellus Shale has the potential to have dramatic impacts on our County.

Sincerely,

Danny Ross, Chair

Cortland County Legislature Ag, Planning, & Environment Committee

Kathie Arnold, Vice Chair