

December 21, 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 Cortland County Planning Department has reviewed the Draft Supplemental Generic Environmental Impact Statement on Oil, Gas, and Solutions Mining Regulatory Program related to well permit issuance for horizontal drilling and high volume hydraulic fracturing to develop the Marcellus Shale and other low-permeability gas reservoirs and would like to provide the following comments.

p.1-5, 3-4

A SEQR Full Environmental Assessment Form is required and a site specific determination of significance is made for “well sites that disturb more than two and a half acres in designated Agricultural Districts.” How is “disturb” being defined? Disturbance of land should include both above ground and below ground activities.

p. 3-2

“A separate finding was made that issuance of an oil and gas drilling permit for a surface location above an aquifer is also a non-significant action based on special freshwater aquifer drilling conditions implemented by the Department.” There is concern regarding potential contamination associated with oil and gas drilling and associated activities above an aquifer and therefore should either not be permitted by the DEC within an aquifer area or if permitted, should be addressed by SEQR through a Full EAF on a case by case basis.

p. 3-11, 12

“The EAF Addendum will require operator affirmations to address the following: review of local comprehensive open space and/or agricultural plan or similar policy documents.” If the proposed action is contrary to the goals and objectives outlined in these plans, how is this remediated?

p. 3-12, 13

“Projects Requiring Site-Specific SEQRA Determinations – Any proposed well pad within 150 feet of a private water well, domestic-use spring, watercourse perennial or intermittent stream, storm drain, lake or pond.” Potential impacts may stretch well beyond 150 feet of a well pad therefore, this distance should be determined on a case by case basis, particularly within an aquifer area.

p. 5-9, 10

“An average multi-pad is likely to be between four and five acres in size during the drilling and fracturing phase, with well pads of over five acres possible”. If this activity occurs on a property in an Agricultural District, it is considered a Type I Action under SEQR (disturbance of over 2.5 acres of land in an Agricultural District). Since the Agricultural District program is the responsibility of the County, the County and local municipality should be agencies involved in the SEQR process for individual oil and gas drilling permit applications within the Agricultural District.

p.5-10

“Mandated surface restrictions and setbacks may also impose additional acreage requirements”. The local municipality should be provided the opportunity to mandate surface restrictions and setbacks per local zoning regulations.

p.5-81-84.

Proposed dams for water storage should be reviewed by the County and local municipality to determine potential impacts to property/roads due to dam failure.

p. 5-97-118.

There are several pages devoted to storage of flowback waters for reuse. The storage of flowback waters in open pits, regardless of the number of safeguards (dual lined membranes, monitoring wells, etc.) installed, have the potential to result in hazardous/toxic materials infiltrating the ground/groundwater. Open pits may also be harmful to birds and other wildlife. It is therefore recommended that all flowback waters be captured in a closed loop system.

p.5-129.

The spreading of production brine on roads for winter snow/ice removal is not recommended as runoff may infiltrate the ground carrying pollutants into the groundwater (public and private drinking water supplies).

P.6-144.

It is recommended that multi-well drilling pads be incorporated instead of single well pads when practical as it will significantly decrease the amount of land disturbance by reducing the number of drilling pads and access roads required.

p.7-38.

“Supplementary permit conditions for high-volume hydraulic fracturing will require the sampling and testing of residential water wells within 1,000 feet of the wellpad, subject to the property owner’s permission, or within 2,000 feet of the well pad if no wells are available for sampling within 1,000 feet either because there are none of record or because the property owner denies permission.” Potential impacts may stretch beyond 1,000 or 2,000 feet of a well pad particularly within an aquifer area therefore, these distances should be evaluated on a case by case basis.

p.8-2.

“ECL~23-0303(2) provides that DEC’s Oil, Gas and Solution Mining Law supersedes all local laws relating to the regulation of oil and gas development except for local government jurisdiction over local roads or the right to collect real property taxes”. It is recommended that local government jurisdictions be given the authority to review site plans related to above ground activities to assess impacts on surrounding property.

Thank you for the opportunity to provide comments on the draft SGEIS. Please feel free to contact me should you have any questions.

Sincerely,

Daniel S. Dineen
Director of Planning

DSD/am