

Attn: dSGEIS Comments  
Bureau of Oil & Gas Regulation  
NYSDEC Division of Mineral Resources  
625 Broadway, Third Floor  
Albany, NY 12233-6500  
[dmnsgeis@gw.dec.state.ny.us](mailto:dmnsgeis@gw.dec.state.ny.us)

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From: Jim Weiss, Chairman, Town of Freetown Planning Board (Cortland County)  
3533 Hoxie Gorge Road  
Marathon, NY 13803

### **Comments to dSGEIS - General Statement**

The following comments are not arranged in any particular order in the conceptual sense. Rather, they are generally addressed in the order in which they first appear in the SGEIS, even though in that first instance it may only be a brief mention of the topic, while more substantive discussion appears later in the dSGEIS. Although both hard copy and on-line versions of the SGEIS were used in the preparation of these comments, page references are taken from the hard copy only. I have noticed that there are discrepancies in page numbers between the two versions. Also, to the extent that the on-line version of Chapter 5 was used, that particular chapter available on the DEC website was marked "INTERNAL REVIEW DRAFT – WORK IN PROGRESS – NOT FOR RELEASE". Therefore there may be some content discrepancies between that version and the hard copy.

#### 1. JURISDICTION OVER LOCAL ROADS (p 1-2; 7-109)

dSGEIS p 1-2 "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 and the right to collect real property taxes.

dSGEIS p 7-109 "Local governments (County, Town and Village) should be proactive in exercising their authority under New York State Highway Vehicle Traffic Laws. This would include the completion of a road system integrity study to potentially assess fees for maintenance and improvements. The applicant should attempt to obtain a road use agreement with the municipality or document the reasons for not obtaining one. When there is no agreement, operators should develop a trucking plan that includes estimated amount of trucking, hours of operations, appropriate off road parking/staging areas, and routes for informational purposes."

dSGEIS p 7-110 "If no road use agreement has been reached, the operator shall file its trucking plan with the Department, for informational purposes only, along with documentation of its efforts to reach a road use agreement..... Examples of measures that *could* be included in a

road use agreement or trucking plan include:.....etc. (emphasis added)

**Comment- Roads:** Based on an informal survey I have made, very few Towns have enacted road protection laws. This is due to a variety of factors: 1) preparation of a road protection laws requires substantial technical and legal knowledge and must be carefully crafted to withstand the inevitable challenge by drilling companies, and 2) the necessary expenses required to gather and apply this knowledge are beyond the budgets of most rural Towns.

Granted jurisdictional issues are governed by state law, not by DEC regulations. Even so, the admonition that local governments “should be proactive” is basically meaningless and only serves to underscore the powerlessness of local governments, especially poor rural Towns. If the DEC were sincere in its concern for the well being of Town roads, it would facilitate, by working cooperatively with the appropriate state agencies, the development of road use laws and provide Towns with the necessary technical support toward that end.

Regarding the stipulation that drilling companies “should attempt to obtain a road use agreement with the municipality or document the reasons for not obtaining one”, this is empty rhetoric. "Attempt" is basically subjective and this requirement can be fulfilled with little effort. If reasons for not obtaining a road agreement must be supplied by the drilling company, why aren't they also requested from the local government? Aren't both perspectives equally valid? This clearly demonstrates pro-industry bias.

If no agreement can be reached, then the drilling company, **unilaterally** develops its own trucking plan, which “*could*” address community concerns, such as route selection, school bus hours, advance notice of detours, etc., but also *could not* address them. To add insult to injury, the DEC collects this plan “for informational purposes only,” demonstrating that no matter how unfavorable this trucking plan may be to the community, the DEC does not want to be bothered.

Besides the burden to Towns resulting from abuse of local roads, degradation to road infrastructure degrades surface water quality because of increased erosion.

## 2. NOISE

dSGEIS p 1-5 “....where circumstances exist that prevent a consistency determination, ..... a site specific determination of significance is made. Examples since 1992 where this determination has been made include .....well sites where special noise mitigation measures are required,....”

dSGEIS p 7-107,8 “As discussed in the 1992 GEIS, moderate to significant noise impacts may be experienced within 1,000 feet of a well site during the drilling phase. With the extended duration of drilling and other activities involved with multi-well pads, it is recommended that the pad not be located closer than 1,000 feet to occupied structures and places of assembly. When this threshold is infringed upon, DEC can add appropriate mitigating conditions to the permit if necessary.”

dSGEIS p 5-127 “A well head compressor may be added during later years after gas production has declined and a triethylene glycol (TEG) dehydrator may be located at some well sites, ...”

**Comment-Mitigation:** Mitigation means lessening. It does not mean reduce to a level which does not impose significant adverse impact on “the receptor”. Thus any degree of lessening can be claimed to be mitigation yet fall far short of acceptable or even tolerable.

**Comment - Noise** A threshold (1000 feet) is established, and then, if breached, mitigation can be implemented “*if necessary*”. Why have a threshold if mitigation is discretionary? What happens to a residence that is 1100 feet from the well?

**Comment post drilling equipment-** Noise from drill pad equipment after drilling operations has not been adequately addressed.

dSGEIS p 7-108 “In most instances, the closest receptor is the residence of the property owner where the well is located and the owner has agreed to the disturbance by entering into a voluntary lease agreement with the well operator.”

**Comment - Noise, voluntary leases** Most leases that were signed before 2009 (and also probably well into 2009) were secured under false pretenses by smooth talking landmen, who had a whole catalog of misleading statements and fine print to fool the unsuspecting landowner. While this has no immediate bearing on the dSGEIS, let’s at least be honest about what disturbances the land owner knowingly agreed to.

dSGEIS “ New York State DEC *guidance* document “DEP-00-01Assessing and Mitigating Noise Impacts” along with a site plan *should* be utilized for this purpose. Additionally, the applicant is *encouraged* to review any....” (emphasis added)

**Comment - Noise** (continued) “guidance”; “should”; “encourage” These milk-toast entreaties are not words that will secure environmental protection from a multibillion dollar extractive industry that has about as much concern for the environment as the captain of the Exxon Valdez”. Substantive regulations must specify acceptable, scientifically justifiable decibel levels at critical distances from the drilling site.

### 3. PUBLIC NEED AND BENEFIT

dSGEIS p 2-5,6 “Broome County, New York commissioned a study entitled *Potential Economic and Fiscal Impacts from Natural Gas Production in Broome County, New York* which was released in July 2009. The report details significant potential economic impacts on the Greater

Binghamton Region:”

**Comment - Public Need and Benefit** Although the above referenced study (from Texas - what a coincidence!) painted a rosy future for Broome County, a local professional economist reviewed the report and cited the following omissions and shortcomings. The one sided view offered in the dSGEIS raises the question whether the DEC is demonstrating unbiased, objective scrutiny or is looking for justification for a predetermined outcome.

- 1) Opportunity cost of putting 458,000 acres into gas production is not accounted for. One can just as easily say those acres generated X amount of output in the ag sector, this led (using the same input output model) to 3 times X revenue for the county, this is associated with Y jobs and this can be done without fouling the water, scarring the land, and attracting low income workers with attendant increase in crime, demand for welfare,... This cost is not accounted for in the Weinstein analysis. He assumes all those acres have a Zero opportunity cost. What if the land attracted high tech businesses with an educated labor force that would go to good restaurants, require professionals and would not sicken the local populace leading to increased absenteeism.
- 2) Price should be “high” – consumers can and do react to strong price increases. Global warming makes gas production as predicted on high future prices speculative.
- 3) Pricing models do not account for fact that all this new gas supply from the Marcellus will of course suppress gas prices.
- 4) Notion that \$5 per mcf break even over time will decrease to \$3 per mcf because of shallow nature is completely speculative.
- 5) Input-output model does not account for negative externalities of a) potential contaminated aquifers; b) if employment increases where will those people live. Land values plummet around industrial zones; c) crime increases and number of uneducated workers increases; d) more strain on social services
- 6) Rising demand for hotels, restaurants etc. is based on faulty assumption that low educated workers that live in rental houses/man camps with rental houses with 6 or 7 to a house and 5 vehicles will demand those services.
- 7) There will not be residential development. Gas field workers demand double wide parks, proliferation of rental housing and unkempt neighborhoods.
- 8) The report assumes “minimal environmental impact.” This immense assumption has no analysis to support the assumption. So, all these “made up” positive impact benefit numbers ignore the potential negative externalities of poisoned water, resident health declines, and land being ravaged.

9) Fundamental problems with this study are that: a) ignores what future economic benefit would be of current land use or other future alternative uses; b) Chesapeake and others are not paying full price of what they are doing to land, air and water so Broome County residents will have to pay those costs in the future when the gas co. are gone; and c) grossly overestimates benefits and grossly underestimates costs.

#### 4. DISCHARGES TO WATER

dSGEIS p 2-10 (from footnote to water use classification Table 2.1) “These waters shall contain no floating solids, settleable solids, oil, sludge deposits, toxic wastes, deleterious substances, colored or other wastes or heated liquids attributable to sewage, industrial wastes or other wastes; there shall be no discharge or disposal of sewage, industrial wastes or other wastes into these waters; these waters shall contain no phosphorus and nitrogen in amounts that will result in growths of algae, weeds and slimes that will impair the waters for their best usages; there shall be no alteration to flow that will impair the waters for their best usages; there shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions.”

**Comment - Discharges to Water** Obviously, the entire issue of flowback water is a major problem. How this will be handled to remove “deleterious substances” and “industrial waste” has to be addressed in the SGEIS. Regarding “growths of algae”, it is worth noting that the Dunkard Creek incident in PA, in which some 35 miles of pristine stream suffered a massive fish and other aquatic life die off, has been attributed by the EPA to a toxic algal bloom encouraged by excess salinity from mining waste water.

#### 5. WATER QUALITY STANDARDS - FEDERAL

dSGEIS p 2-12-15 “The Safe Drinking Water Act (SDWA), passed in 1974 and amended in 1986 and 1996, gives USEPA the authority to set drinking water standards. There are two categories of drinking water standards: primary and secondary. Primary standards are legally enforceable and apply to public water supply systems. The secondary standards are non-enforceable guidelines that are recommended as standards for drinking water. Public water supply systems are not required to comply with secondary standards unless a state chooses to adopt them as enforceable standards. New York State has elected to enforce both as MCL’s and does not make the distinction.”

“NYSDOH standards, established in regulations found at Section 5-1.51 of 10 NYCRR and accompanying Tables in Section 1.52, meet or exceed national drinking water standards. These standards address national primary standards, secondary standards and other contaminants, including those not listed in federal standards such as principal organic contaminants with specific chemical compound classification and unspecified organic contaminants.”

**Comment - Water Quality Standards - Federal** In 2005 Congress amended US law so as to exempt the oil and gas industry from most of the requirements of the SDWA (and a host of other federal environmental protection laws; see #15 below.) The above excerpt from the dSGEIS implies that in NYS the gas industry will be held to SWDA standards which appears inconsistent with current federal law. Does the 2005 federal exemption from SWDA for the gas drilling industry apply in NYS or not? This ambiguity needs to be rectified.

## 6. PRIVATE WATER WELLS

dSGEIS p 2-24 “The GEIS describes how improperly constructed private water wells are susceptible to pollution from many sources, and proposes a 150-foot setback to protect vulnerable private wells.”

**Comment - Wells** A 150 foot setback from a private well seems much too short for a massive, invasive industrial process. The DEC should explain how this was determined, and how this 150’ setback reconciles with the 1000 foot “threshold” distance for noise “mitigation” if the private well is adjacent to the “occupied structure”.

## 7. SEQR COMPLIANCE

dSGEIS p 3-4 “In cases where the SGEIS Supplemental Findings Statement indicates that the GEIS and the Supplement satisfy SEQRA, Department staff will not make Determinations of Significance or issue Negative or Positive Declarations. Such projects have common potential impacts, and the GEIS and this Supplement identify common mitigation measures that will be implemented through existing regulatory programs and *permit conditions*. Staff will file a record of GEIS/SGEIS consistency and process the well permit application. *Permit conditions* will be added on a site-specific basis to ensure that the permitted activities will not have a significant effect on the environment”, (emphasis added).

**Comment - SEQR Compliance** The DEC should explain what general principle establishes when a particular environmental concern is addressed through *permit conditions* as opposed to concerns that are addressed via “guidance”, “shoulds”, and “encourages” as discussed in the earlier section on Noise.

## 8. LEAD AGENCY

dSGEIS p 3-7 “However, if the proposed action falls under the jurisdiction of more than one agency, based, for example, on the need for a local floodplain development permit, the lead agency must be determined by agreement among the involved agencies. An involved agency has

the obligation to ensure that the lead agency is aware of all issues of concern to the involved agency.”

**Comment - Lead and Involved Agency** ECL § 23-0303(2) provides that Towns have jurisdiction of local roads (see comments on roads, earlier). According to the excerpt from p 3-7, it follows that Towns are involved agencies and thus have the right to “be at the table” in discussions regarding permitting. This is inconsistent with the process of “road use agreements” and “trucking plans” discussed earlier.

## 9. WELL PADS

dSGEIS p 5-9 “Site preparation activities consist primarily of clearing and leveling an area of adequate size and preparing the surface to support movement of heavy equipment.

p 7-77 “Any top soil brought to the site for reclamation activities must be obtained from a source known to be free of invasive species.”

p 7-104 “.... it would be beneficial in reducing long term visual impacts if the 1992 GEIS topsoil conservation and redistribution practices required upon final plugging and abandonment in agricultural districts were required for all well pads.

**Comment - Well Pad Reclamation, topsoil** Why aren’t the topsoil conservation practices required?

## 10. CHEMICALS AND HEALTH

dSGEIS p 5-61 “Although exposure to fracturing additives would require a failure of operational controls such as an accident, a spill or other non-routine incident, .....”

dSGEIS p 8-7 “The only potential exposure pathway to fracturing additives identified by this Supplement is via air emissions from uncovered surface impoundments used to contain flowback water.”

dSGEIS p 6-53 “Gas from the Marcellus Shale ...is expected to ...have little or no VOC...and little or no hydrogen sulfide.

**Comment - chemical exposure** Exposure does not only occur in a “failure of operational controls such as an accident, a spill or other non-routine incident.” VOC escaping from a containment pond can easily cause exposure as a result of routine operations. Hydrogen sulfide exposure can result from routine operations. Just as NORM varies greatly from location to location, other toxic byproducts, regardless of “expectations” can as well.

## 11. COMPOSITION OF FRACTURING FLUIDS - HEALTH

dSGEIS p 5-61 Petroleum Distillates “Petroleum-based constituents are included in some fracturing fluid additive products. They are listed in MSDSs as various petroleum distillate fractions including kerosene, petroleum naphtha, aliphatic hydrocarbon, petroleum base oil, heavy aromatic petroleum naphtha, mineral spirits, hydrotreated light petroleum distillates, stoddard solvent or aromatic hydrocarbon. These can be found in a variety of additive products including corrosion inhibitors, friction reducers and solvents. Petroleum distillate products are mixtures that vary in their composition, but they have similar adverse health effects. Accidental ingestion that results in exposure to large amounts of petroleum distillates is associated with adverse effects on the gastrointestinal system and central nervous system. Skin contact with kerosene for short periods can cause skin irritation, blistering or peeling. Breathing petroleum distillate vapors can adversely affect the central nervous system.”

(From Chesapeake Energy Fact Sheet on Fracturing Additives)

“Petroleum distillate - “Slicks” the water to minimize friction - Used in cosmetics including hair, make-up, nail and skin products”

(From IOGA/NY website) “The fracture fluid also contains additives such as a friction reducer, similar to cooking oil, which aids in pumping the liquid”

**Comment - Fracturing Fluids** This example illustrates what can be shown over and over again - the deceitful characterization of chemical additives in fracking fluid as benign household substances. Here we come to a core issue in this debate: the gas industry is dishonest, deceptive, misleading, unethical, etc., etc. In short, THEY LIE. There are myriad examples of this fact and a few more will be cited in this document. But certainly one of the most egregious is the representation that fracking fluid is harmless. Obviously the DEC knows the toxic nature of these chemicals. (p 5-66 “Transporting frac additives that are hazardous is comprehensively regulated under existing regulations. The regulated materials include the hazardous additives and mixtures containing thresholds of hazardous materials. These transported materials are maintained in the USDOT or UN-approved storage containers until the materials are consumed at the drill sites.”) Yet there is no indication that the DEC is even the slightest bit concerned about the industry’s blatant attempt to fool the public.

The DEC’s role is an inherently conflicted one - to regulate an invasive industry while holding rampant destruction of the environment at bay. Technically speaking of course, one doesn’t put in a GEIS, “Thou shalt not lie.” But by remaining silent in the face of the glaring abuse of the truth by the industry it is charged to regulate, the DEC becomes complicit in the deception.

## 12. ON-SITE STORAGE AND HANDLING OF ADDITIVES

dSCEIS p 5-70 “The blended fracturing solution is not stored, but is immediately mixed with proppant and pumped into the cased and cemented wellbore. This process is conducted and monitored by *qualified personnel*,.....”) emphasis added.

**Comment - qualified personnel** - Does that include the dozen or so workers on the Cabot crew that were fired for drug use/possession in PA last month? Here are some more views of qualified personnel I would want to entrust with my environment and health:

[http://www.youtube.com/watch?v=rk5Fw\\_Xmui4&feature=related](http://www.youtube.com/watch?v=rk5Fw_Xmui4&feature=related)

<http://www.chasingthedragonriggear.com/movies.php>

<http://www.youtube.com/watch?v=6Ye0j1-Bd50&feature=related>

#### 14.CENTRALIZED FLOWBACK WATER IMPOUNDMENT

dSCEIS p 6-29 “The potential use of large centralized surface impoundments to hold flowback water as part of dilution and reuse system is described in Section 5.12.2.1. The potential impacts associated with use of such impoundments that are identified in several sections above and are summarized here.

- Potential soil, wetland, surface water and groundwater contamination from spills, leaks or other failure of the impoundment to effectively contain fluid. This includes problems associated with liner or construction defects, unstable ballast or operations-related liner damage.
- Potential soil, wetland, surface water and groundwater contamination from spills or leaks of hoses or pipes used to convey flowback water to or from the centralized surface impoundment.
- Potential for personal injury, property damage or natural resource damage similar to that from dam failure if a breach occurs.
- Transfer of invasive plant species by machinery and equipment used to remove vegetation and soil.
- Consumption by waterfowl and other wildlife of contaminated plant material on the inside slopes of the impoundment.
- Emission of Hazardous Air Pollutants (HAPs) which could exceed ambient air thresholds 1,000 meters (3,300 feet) from the impoundment and could cause the impoundment to qualify as a major source of HAPs.

dSCEIS p 7-55 *Use of Tanks Instead of Impoundments for Centralized Flowback Water Storage* “Above ground storage tanks have some advantages over surface impoundments. The Department’s experience is that landfill owners prefer above ground storage tanks over surface impoundments for storage of landfill leachate. Tanks, while initially are more expensive, experience fewer operational issues associated with liner system leakage. In addition, tanks can be easily covered to control odors and air emissions from the liquids being stored. Precipitation loading in a surface impoundment with a large surface area can, over time, increase the volumes of liquid needing treatment. Lastly, above ground tanks also can be dismantled and reused.”

p 7-89 “.....uncertainties relative to potential flowback water volume and composition have led

the Department to propose that flowback water not be directed to an on-site reserve pit but instead be held on the well pad in tanks prior to shipment to a disposal, treatment or re-use location. “

p 8-7 “The only potential exposure pathway to fracturing additives identified by this Supplement is via air emissions from uncovered surface impoundments used to contain flowback water.”

### **Comment - Central Impoundment of Flowback Water**

1. Flowback water is not water. Water connotes lack of harm. It is flowback fluid, just as in fracturing fluid. (The industry’s endless repetition of the composition of fracking fluid as 99% water also uses this disguise, as in this statement from the Chesapeake website: A representation showing the percent by volume composition of typical deep shale gas hydraulic fracture components reveals that more than 99% of the fracturing mixture is comprised of freshwater and sand.)

Flowback fluid must be held in closed steel tanks, regardless of expense.

## 15. GROUND WATER PROTECTION COUNCIL

dSGEIS p 5-145 “GWPC’s overall conclusion, based on its review of 27 states’ regulations, including New York’s, is that state oil and gas regulations are adequately designed to directly protect water resources.

dSGEIS Appendix 15 “A series of federal laws governs most environmental aspects of shale gas development. For example, the Clean Water Act regulates surface discharges of water ..... The Safe Drinking Water Act regulates the underground injection of fluids. The Clean Air Act limits emissions from engines, gas processing equipment.....”

**Comment - GWPC** The excerpt from Appendix 15 contains carefully worded sentences designed to mislead the reader. Most aspects of federal regulation were nullified through the 2005 exemptions granted to the oil and gas industry by a congressional law known as the Halliburton Loophole in honor of Dick Cheney. For example, as a result of this law, Underground Injection Control (UIC) regulations may not interfere with or impede hydraulic fracturing or other underground injection for recovery of oil and gas (42 USC § 300(h)(b)(2)), thereby nullifying SWDA protections. Similar exemptions from the Clean Water Act and Clean Air Act were conferred upon various aspects of gas drilling operations. See 42 USC § 300(d)(1)(b), 42 USC § 1342(24), 42 USC § 7412(n)(4)(A), and 42 USC § 7412(n)(4)(B). Thus, once again, we are confronted with the recurring theme: THEY LIE. By endorsing and employing these documents in the dSGEIS the DEC has joined forces with the agents of deceit.

dSGEIS p 5-146 “GPWC urges caution against developing and implementing regulations based on anecdotal evidence alone, but does recommend continued investigation of complaints of ground water contamination to determine if a causal relationship to hydraulic fracturing can be

established.”

**Comment - GWPC, anecdotal evidence.** Certainly regulations cannot be based only on anecdotal evidence. But that does not mean that anecdotal evidence should be ignored. There is now extensive documentation of numerous and diverse instances of environmental harm as a direct result of gas extraction from shale. The gas industry has a simple solution - denial. The DEC apparently has another simple solution - ignore. NOT ACCEPTABLE.

## 16. SUBSURFACE PATHWAYS

dSGEIS p 6-37 "As explained in Chapter 5 and detailed in Appendix 11, ICF's analysis showed that hydraulic fracturing does not present a reasonably foreseeable risk of significant adverse environmental impacts to potential freshwater aquifers by movement of fracturing fluids out of the target fracture formation through subsurface pathways when certain natural conditions exist."

from the 1992 dGEIS "Of most concern, are the locations of thousands of unknown deserted or abandoned wells which may or may-not have been properly plugged. .... An improperly plugged well will provide a conduit for pressurized fluids to migrate and endanger water supplies”.

**Comment - subsurface pthways** The DEC has not adequately addressed migration of fracking fluid through abandoned wells.

## 17, LETTERS AND STATEMENTS FROM 15 STATES

dSGEIS p 6-37 “ ....regulatory officials from 15 states have recently testified that groundwater contamination from the hydraulic fracturing procedure is not known to have occurred despite the procedure's widespread use in many wells over several decades.

dSGEIS Appendix 15. examples

from Ohio: "After 25 years of investigating citizen complaints of contamination, DMRM geologistshave not documented a single incident involving contamination og ground water due to hydraulic fracturing”

from Oklahoma: "Tens of thousands of hydraulic fracturing operations have been conducted in the state for the last 60 years. Had hydraulic fracturing caused harm to groundwater ....we are confident that we would have identified that harm...”

### **Comment -Letters and statements from 15 states**

1) These are clearly not dealing with high volume, slick water hydrofracturing and therefore of minimal relevance to this dSGEIS.

2)mHow much pre drilling testing was done? Without this information, what was minimally relevant now becomes irrelevant.

3) Once again, the DEC has willfully employed misleading documentation to justify what looks very much like a predetermined outcome.

## 18. PROTECTING VISUAL RESOURCES

dSGEIS p 7-103 "Impact mitigation measures *should* be considered.... siting *sensitively* (!)...lighting mitigation *should* be considered....to the maximum extent *practicable* topsoil reclamation *would be* beneficial etc. etc."(italicized emphases added).

### **Comments- Visual Impacts**

The language is completely milk toast. I suppose one of the hiring criteria for Chesapeake or Fortuna will be sensitivity.

## 19. CUMULATIVE IMPACTS

dSGEIS p 6-145-146 "Nor is it possible to define the threshold at which development results in adverse noise, visual, and community impacts....."

**Comment -threshold** Air, water, noise pollution standards for NYS are for cumulative impact, not site specific.

dSGEIS p 6-145 "Some people will feel that one drilling rig on the landscape is too many, while others will find the changes in the landscape inoffensive and will want full development of the resource as quickly as possible"

**Comment -landscape** Do you really think that people who have chosen a rural lifestyle will find drilling rigs scattered across their land an aesthetic improvement? Don't you think it might possibly be about money?

dSGEIS p 6-146 "...any limitation on development, aside from the mitigation measures discussed in the next chapter, is more appropriately considered in the context of policy making, primarily at the local level, outside of the SGEIS."

**Comment** Considering that essentially all local jurisdiction has been preempted by ECL, there isn't a whole lot of meaning to this statement.

## 20. WATER TESTING

dSGEIS p 7-41 "Based on recommendations from the sources (including NYSDOH) cited

above, that reviewed fracturing additive and flowback water composition data provided to the Department and summarized in Chapters 5 and 6, the following additional testing parameters have been identified: (list of 16 parameters follows)

**Comment** - How does this list refelect the list of some 200+ frac additives?

## 21. COMPLAINTS

dSGEIS p7-43 Complaints .... should be jointly investigated by DEC and the county health department.....staff shall conduct a site inspection, and if a complaint coincides with any of the following *documented* potentially polluting non-routine well pad incidents, then the Department will consider the need to require immediate ....”

**Comment - complaints** The focus here is on the term *documented*. The industry lies. If they can get away with a pollution event they will. Documentation is not a given.

## CONCLUSION

While the DEC may have constructed a proposal that is an improvement over other states, the bar has been set so low that an improvement does not equate with satisfactory. There are many loopholes, unaddressed serious issues, and weak language. Whether it is true or not, the appearance is that this document has catered to the desires of the gas industry. As in politics or law, even the appearance of inappropriate influence is unacceptable. In fact, the intentional use by the DEC of factually misleading statements (eg. from GWPC) renders this dSGEIS a quasi-political document , rather than the scrupulously clean technical and objective work that citizens demand and deserve.

Jim Weiss  
Dec 30, 2009

