



PEF/encon



January 11, 2012

ATTN: dSGEIS Comments
Bureau of Oil and Gas Regulation
NYSDEC, Division of Mineral Resources
625 Broadway, Third Floor
Albany, NY 12233-6500

Re: PEF/encon's comments for the draft Supplemental Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program

We are writing on behalf of the Steward Council of Division 169 of the NYS Public Employees Federation representing the rapidly diminishing 1750 or so Professional, Scientific and Technical Services Unit staff working at NYSDEC to request an extension of the public comment period for the revised draft Supplemental Generic Environmental Impact Statement (dSGEIS) for at least another 30 days and to once again express our assessment that the moratorium on high-volume hydro-fracturing should be continued for at least another year, if not longer.

1. The comment period should be extended because:
 - a. New York State citizens in the geographic areas potentially impacted the most by drilling related activities are in the areas heavily flood-damaged by hurricanes Lee and Irene. Many of these citizens have been preoccupied with relocation, recovery and reconstruction activities and have not had adequate time to read, review and comment on the revised dSGEIS.
 - b. New scientific, technical, engineering and health related issues related to high-volume hydro-fracking are frequently appearing. They need adequate time to be reviewed and analyzed for relevance to New York State.
2. In our December 28, 2009 comments on the previously issued dSGEIS, we took the position that NYS should not finalize any plans to authorize expansion of drilling activities in the Marcellus Shale Formation until after the United States Environmental Protection Agency completes the Congressional mandate to evaluate the safety and environmental implications of high-volume hydro-fracking. In light of the previously referenced concerns about extending the comment period because of troubling new issues emerging very frequently, we believe it is even more prudent now to wait until the USEPA has finished its review and report.
3. Many of the items we addressed in December 2009 were modified or corrected in the latest draft. However, many were not. One of the most critical problems has only become much worse--inadequate staffing. This issue is of grave concern to PEF/encon, environmental organizations, the NYS Legislature, the public and even much of the regulated community. While technically not within the scope of the dSGEIS, avoiding this issue is tantamount to ignoring the mountain gorilla in the living room during your grandmother's tea party.

Staffing resources needed by NYSDEC and other state agencies and municipalities with oversight responsibilities for assuring that public health and NYS's natural resources are fully protected have not been thoroughly identified and/or budgeted for. Diverting existing over-worked NYSDEC staff from their present regulatory and statutory responsibilities to concentrate on labor-intensive gas drilling, permitting, and enforcement is not an acceptable alternative and must be prohibited. Heavily downsized DEC staff are unable to fully comply with their current statutory and regulatory responsibilities. Attempting to expect them do even more with less is not only not possible; it is foolish and irresponsible.

4. As we mentioned in 2009, NYS should not allow hydro-fracking until a funding source has been identified (and implemented) to adequately staff state, county and municipal agencies to meet their oversight, emergency response and regulatory responsibilities.
5. One of our major concerns about needing new legislation was resolved with the Governor and NYS Legislature agreeing to regulate high volume withdrawals of surface and groundwater used in the high-volume hydro-fracturing drilling process, but NYS has not yet passed legislation to regulate the backflow water and associated solid and liquid by-products of drilling. This should be done before the moratorium on drilling is lifted.
6. NYS should also not allow new drilling to occur until the cost benefit analysis is completed. NYS needs a full accounting of the projected actual costs and opportunity costs of drilling, such as the costs of municipal treatment plant upgrades, new road construction, increased road maintenance on existing roads and community emergency response costs. State agency spill response, emergency preparedness, remediation, and restoration expenses associated with allowing this type of drilling should also be analyzed and budgeted for.

For all the above reasons, we believe the public comment period should be extended for a minimum of another 30 days. We also believe it unwise to lift the moratorium on high-volume horizontal hydro-fracking in the Marcellus Shale formation until the concerns and issues we and others have raised are adequately addressed. A moratorium on natural gas drilling of at least a year in light of the above is more than reasonable.

Sincerely yours,



George Stadnik and Wayne Bayer
PEF Executive Board Representatives for PEF/encon, Division 169 On behalf of the Steward Council of Division 169,
NYS Public Employees Federation

Cc: Governor Andrew Cuomo
NYSDEC Commissioner Joe Martens
Speaker of the Assembly, Sheldon Silver
Democratic Conference Leader, John L. Sampson
Senator Mark Grisanti
Assemblyman, Robert K. Sweeney