



December 15, 2008

Bureau of Oil & Gas Regulation  
NYSDEC Division of Mineral Resources  
625 Broadway, Third Floor  
Albany, NY 12233-6500

**ATTN: Scope Comments**

Citizens Campaign for the Environment (CCE) thanks the New York State Department of Environmental Conservation (NYSDEC) for the opportunity to comment on the draft scope of the Supplemental Generic Environmental Impact Statement (SGEIS). CCE is an 80,000 member non-profit, non-partisan environmental advocacy organization that works to empower communities and advocate solutions that result in sound environmental policy.

CCE commends the Department for addressing new drilling technology in the creation of the Supplemental Generic Environmental Impact Statement (SGEIS). Producing and harvesting new sources of energy is a critical component of addressing New York's energy needs. CCE is committed to protecting New York drinking water quality and our water resources as oil and gas exploration regulations and procedures are developed. CCE commends the Department's proactive approach for soliciting public comment and review. CCE also commends the Department for recognizing the increasing interest in drilling in areas not covered by the GEIS.

High volume hydraulic fracturing, horizontal well drilling, and slickwater fracturing are techniques that require large amounts of freshwater. New York State is blessed with an abundance of freshwater and natural gas rich shale formations which are both drawing oil and gas developers to New York State. Unfortunately, the areas targeted for unconventional natural gas extraction are environmentally sensitive areas. CCE believes New York State must make freshwater protection a priority, when determining the scope and requirements for natural gas drilling. CCE recognizes NYSDEC's regulation of the oil and gas industry to date, however as NYSDEC looks to permit the use of New York's freshwater it must make take to heart its charge to "prevent and abate water, land and air pollution." To this end, CCE makes the following comments on the draft scope of the SGEIS.

**CCE supports the DEC including the following in the draft scope:**

1. Evaluating major long-term changes to land use patterns, traffic, and the need for public services;
2. Evaluating potential community impacts, including but not to limited environmental justice concerns;
3. Amending the EAF for shale well drilling;
4. Coordinating with local government, other agencies, NYC Department of Environmental Protection, and others;
5. Notifying local government of activities;
6. Evaluating existing wastewater infrastructure capabilities to treat spent fluids, flowback, brine, etc. and analyze wastewater treatment plant upgrade potential to properly treating drilling byproducts;
7. Evaluating additional permit conditions, environmental review and exclusion zones for NYC's watershed, additionally CCE recommends the DEC include 303d List waterbodies, sole source aquifers, and Class A waterbodies;
8. Reviewing and publicly disclosing volume and composition of spent fracturing fluid;
9. Reviewing and publicly disclosing fracturing fluid additives;
10. Requiring erosion and sedimentation controls at well sites;
11. Examining additional protections for floodplains and wetlands;
12. Long-term monitoring of decommissioned wells;
13. Examining the environmental impacts of larger well pads and the land reclamation associated with said pads;
14. Reviewing the environmental impacts of multiple well drilling at the same surface locations;
15. Evaluating Naturally Occurring Radioactive Materials (NORMs) at drilling sites and the potential for long-term contamination of the surrounding environment, including drinking water;
16. Examining the air quality impacts, complete with a cumulative analysis, of all phases of natural gas drilling including drilling, fracturing, flowback, and testing; and
17. Assessing noise impacts at all stages of the drilling process.

To protect environmentally sensitive and important watersheds including the Great Lakes Basin, Delaware and Susquehanna River Basins, and New York City's watershed, **CCE recommends that the Department require meaningful consultation between the DEC Division of Mineral Resources and the Division of Water.** Further, the Division of Mineral Resources has yet to recognize the passage of the Great Lakes- St. Lawrence Water Resources Compact in its draft scope. The binding Compact sets limits on water withdrawals, prohibits water diversions out of the Great Lakes basin, and requires the return of water to its source watershed. **This omission underscores the fact that the public needs interagency cooperation to protect our water resources. While the DEC is represented on both the Susquehanna River Basin Commission and the Delaware River Basin Commission, CCE believes additional and direct consultations should occur to constitute meaningful interagency cooperation.** CCE further recommends that careful consideration be made when drilling is considered near Class A waterbodies, 303d List waterbodies, and sole source aquifers.

### **Return Water to Source Watershed & Treat All Drilling Byproducts**

Transporting water outside of its source basin should not be practice or policy of the NYS Department of Environmental Conservation. All steps should be taken to use water within the watershed and return extracted water, upon treatment, to its source watershed. Transporting wastewater to or from a well-drilling site should result in that treated water returning to its watershed. **On the issue of wastewater, brine, and fracturing fluid CCE believes that the Department should implement stringent requirements for treating and returning clean water to the source watershed, regardless of whether or not the affected watershed has regulations guiding water withdrawal and consumptive use.** This practice will create uniformity across basin lines and provide a uniform regulation that does not conflict with the any of the major watersheds mentioned.

Additionally, any water transported to the site will presumably be done in trucks. **CCE believes the Department should adopt a no-idling law to prevent unnecessary fumes from affecting our air and our communities.**

CCE agrees that water withdrawal standards should include impacts to public water supply, potential denigration of a stream's designated best use, potential impacts to wetlands, fish and wildlife, and strong preventative measures to guard against the transfer of invasive species.

The Department has solicited comments on fluid handling and removal at the well site. **CCE agrees that pit liner specifications should be detailed and believes that steel tanks should be required for drill pads near Class A and 303d List waterbodies as well as sole source aquifers.** CCE commends the Department for requiring all waste fluids are removed before pits are reclaimed. **CCE is concerned with underground injection control of wastewater fluids, as it does not adequately address treatment and return of water.**

CCE supports the Department's decision to collect the information from operators regarding volume and composition of the spent fracturing fluid. **CCE advocates the Department also discloses this information to the public.** CCE does not believe that the Department should allow confidential/proprietary information to keep the Department from publicly disclosing what chemicals are used for hydraulic fracturing. The public has a right to know what is being used in its soil in the water used drilling. **CCE also supports a feasibility study of requiring reuse/recycling of fracturing flowback fluids.**

Research by the New York State Energy and Development Authority indicates using nitrogen, as opposed to water, can be more desirable for natural gas extraction, despite its higher cost. **CCE recommends that the Department fully evaluate using nitrogen as an alternative to water for natural gas extraction and include potential implications to the climate, public health, and water quality in its analysis of this alternative.**

Regarding cumulative impacts of new drilling techniques, CCE supports the Department reviewing the cumulative impacts of rate of development of Marcellus Shale on the public's water resources. Further, CCE agrees that duplication of regulatory authority is not only frustrating to agencies/authorities, but also to applicants and the public, however in regards to New York's water resources **CCE asserts that the Department must work with existing authorities and include the appropriate caveats for the creation of any new regulating authorities, for example the Great Lakes Basin.**

CCE believes New York State should set up a **Public Water Protection Fund**, funded by oil and gas drillers. Public Water Protection Fund should be used to provide for any unforeseen problems with drinking water and natural resource damages associated with natural gas drilling. CCE believes the DEC should require, as condition of the permit, the establishment of a Public Water Protection Fund.

CCE supports public and local government participation to the greatest extent possible in order for public resources to be protected, and to bolster the environmental quality review of oil and gas drilling in NYS.

Finally, CCE believes that in the future public hearings must be held in NYC, as well as other parts of the state, to ensure meaningful public involvement and consultation in the development of the SGEIS.

Thank you for the thoughtful consideration of our comments.

Sincerely,

Sarah Eckel  
Program Coordinator

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